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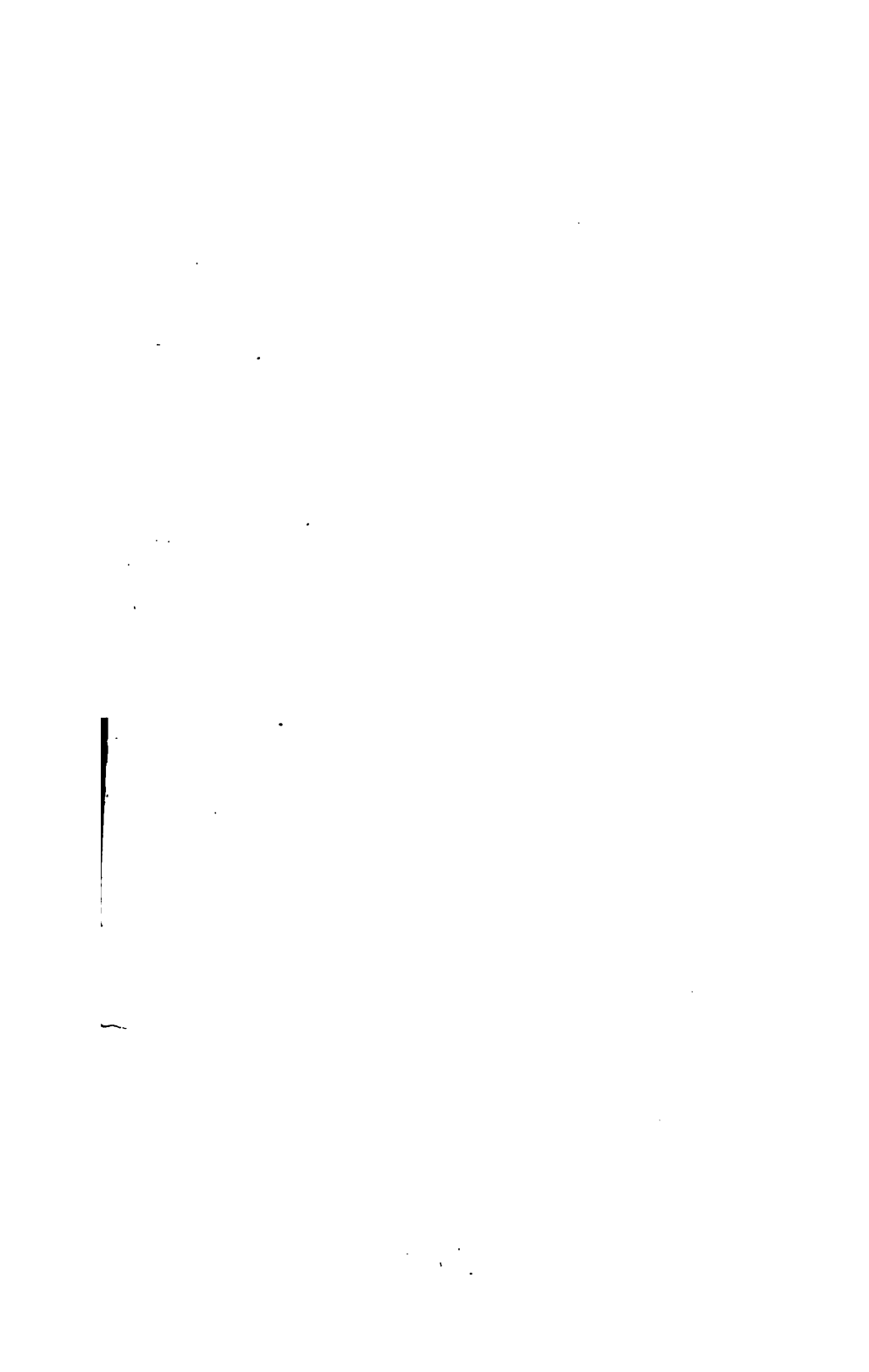
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INTERNATIONAL LAW OF SPANISH AMERICA

5-1161

ARBITRATION
ON
M I S I O N E S

Statement made by the late
Minister of Foreign Affairs of the
Argentine Republic

DR. DON ESTANISLAO S. ZEBALLOS

*to refute mistakes of Brazilian origin and
to enlighten public opinion in South and North America*



PRINTED BY JACOBO PEUSER
BUENOS AIRES
1893

1. The first part of the document is a list of names and addresses of the members of the committee.

THE ARBITRATION ON MISIONES

Worthless pretexts of quarrels between Spain and Portugal, which have put to the test the friendly relations of the Argentine and Brazilian Republics; and the solution of which ensures-friendship between the two States.

I agree with Your Lordship that the *indecent denials*, *calumnious accusations*, *iniquitous charges* and other similar expressions to be frequently found in Your Lordship's dispatches, particularly in the last one of 30th ult.^o, to which I now reply, mean not, and can never mean, that right is on the part of those who are in the wrong; for they rather show incoherence and want of sound reason on the part of whoever uses them.

Your Lordship might have added that right neither is obtained by instability of principles, alteration of news, false rumours set afloat, confusion, humbug and slang.

This unheard of language, to which I have never had recourse, is the most common

weapon of a narrow policy, which being devoid of other proofs, endeavours to palliate and conceal errors, with misleading reference to the reality of facts, thus making disputes interminable.

DIEGO DE ALBEAR.

(Fourth dispatch to the Portuguese Commissioner, SANTO ANGEI, 10th October 1790).

The treaty ordaining that an individual map of the whole frontier should be constructed, it ordains likewise and takes for granted—although it does not state it—that all preliminary surveys shall be made that may be required to attain truth and exactness in that operation.

That is why none of the Boundary Commissioners can refuse to make any inquiry or investigation proposed by his colleague; and still less is he justified in constituting himself sole judge to decide as to their being chimerical, apocriphal, or ill-intentioned inventions. This would be real, unbearable pride, and the most infallible means of preventing the frontier being surveyed and marked out as particularly as Their Majesties wish it.

DIEGO DE ALBEAR.

(Eighth reply to the Portuguese Commissioner, SANTO ANGEI, 16th November 1790).

I have only one regret, as a Brazilian; that common sense, (what little there was)

was on the part of the Argentines, in the way of conducting the question.

BARON DE CAPANEMA.

(*Jornal do Commercio*, 12th February 1893.)

I only wish that Sr. Dionisyo may not indulge in another freak to bring himself forward; should the decision be favorable for us, let him appropriate the glory; should we be defeated, the whole of Brazil will turn on me, the Government itself not being the last; but in view of my explanations every one will know what were my opinions, and our *learned diplomatists and statesmen* will think that only with the plans were they served. *Let them bear the responsibility of whatever happens.*

BARON DE CAPANEMA.

(*Jornal do Commercio*, 19th February 1893.)

In bad faith were the Spaniards when they gave the Chapecó the name of Pepiry-Guassú, as at that time Olmedilla already mentioned it as *Guatupy*.

And now an Argentine Minister of State presents it to Congress and to the Nation, not only with changed names, but even with suppressions constituting forgery.

BARON DE CAPANEMA.

(*Jornal do Commercio*, 14th February 1893.)

I

After a debate of one hundred and forty two years, the Argentine Republic and Brazil closed it, placing the case in the hands of the international judge spontaneously chosen by the high contracting parties.

On informing one of them—the Argentine Republic—thereof, it was necessary to give an account of the course of the negotiations, always kept private by the Cabinet, to justify the inspiring motives of the friendly solution.

Such is the origin of the Report I presented in 1892 to the Hon. Congress of the Nation and to the Country itself, in my capacity of Minister of Foreign Affairs.

I had naturally to refer to the numerous official works, as well as to those of distinguished authors worthy of perusal who have discussed our rights on Misiones.

The Argentine official document took into consideration for the first time the lengthy and learned Brazilian pleading, doing due honor in the arguments, as well as in the form of presenting them, to the sense of cordiality and mutual respect which unite both nations.

On referring to the Brazilian Statesmen and writers, whose opinions and tendencies were reviewed, the Argentine Minister gave due praise to those who took a prominent

part therein, and in all cases used the consideration due to those who in good faith set forth their patriotic convictions.

The report was not, therefore, a provocation addressed to the Brazilian Statesmen to reopen a debate already closed, but a necessary reply to whatever printed matter they might place before the International Judge as official traditional evidence in the matter, and if the Argentine Republic put in the last word in the controversy, it was because she had always allowed the other party to argue without having herself made use of a similar right.

Moreover, there was no reason whatever that demanded on the part of Brazil a fresh allegation, as no novelty could be added by the diplomatists of Rio de Janeiro or their co-operators to what has already been said in numerous pamphlets and books which form by themselves a regular Missionary library.

These precedents explain the surprise with which has been read in the Argentine Republic the explosion of Baron de Capanema, the head of the late International Exploring Commission of the disputed territories. I do due honor to the sagacity and keen judgement of the Brazilian Statesmen in thinking that they shared our surprise, owing to patriotic reasons to which I shall refer in another chapter.

II

Baron de Capanema does not throw any light on the question from a legal or geographical point of view.

He uselessly insists in what the above-mentioned library has repeated in every language. I will state, further on, what I think of the political and diplomatic service rendered to Brazil by this publication.

I regret being unable even to give him credit for original style, unworthy as his is of an international controversy in full time of peace between States, or in the intervals between merciless battles; for—as stated by Secretary of Embassy Casaleiz —« the rules of urbanity established by good breeding, cannot and must not be altered in political or social life.»

I have stated that the form adopted by Baron de Capanema is not even original and I now add that he has made the mistake of forgetting the refined amiability and cultured tone used by the Rio de Janeiro Government, and has adopted the rude style of a Portuguese Commander of the frontier of Rio Grande.

The quotations placed at the head of these pages, taken from the communications addressed by the Spanish Commissioner for the demarcation of boundaries between the

Crowns of Spain and Portugal, Lieutenant of the Navy Don Diego de Albear, to his colleague Colonel Roscio, show indeed that the offensive terms employed by Baron Capanema towards his opponents, are the very same as those addressed by Coronel Roscio in 1790 to his most refined and ceremonious colleague Don Diego de Albear, with this difference: that Baron Capanema includes in his epithets the Brazilian diplomatists who conducted the negotiations, whom he does not treat fairly and to whom he gives no quarter.

III

The Minister for Foreign Affairs of the Argentine Republic had simplified the entangled debate on the Misiones and presented the case and its solution in a clear, logical and categorical way.

He acted as a lawyer, almost as an arithmetician, rather than as a diplomatist.

Indeed, this exuberant and protracted debate bore two aspects equally fundamental: the one *legal* and the other *geographical*. *Legally*, the terms were precise and definitive. The parties were thoroughly agreed thereupon, they acted on uniformity of purpose, international treaties existed.

Geographically, both countries had so entangled the question, that one pulling to the West and the other to the East, instead of loosening the knot, it became tighter every day.

It was unwise and useless to discuss geographical points which were disputed by both parties and concerning which they never agreed. The legacy of both Metropolis did not consist in *geographical solutions*, but in *geographical arguments*, always contradictory and reciprocally contested. The only agreement entered into by two assistants of the Commissioners in 1750 concerning the false *Pepirí-Guazu*, was declared null and void by the Treaty of 1761. Consequently, the discussion on geographical traditions only leads to a parallelism of Brazilian affirmatives and Argentine negatives.

The Argentine Minister of Foreign Affairs, for the aforesaid reasons abstained in his Report from dealing with geographical *arguments*, and devoted all his energy and attention to the *international acts set forth by the supreme and mutual will of the monarchs*; that is to say, to the *legal question*, which was set down as follows, viz: Nations, like individuals have legal titles to their property. Has the Argentine Republic received hers from noble Spain? Were it so, what do they state about Misiones?

— II —

The Report gives an affirmative answer to the former query, and explains what is asked by the latter in so unquestionable a manner, that Baron Capanema taken by surprise in his feeble fortress formed by the *imbroglio* of geographical arguments, has lost his presence of mind when he most required it, abandoned his positions, and on hinting *urbi et orbe* at his fears that Brazil will be defeated in the arbitration, he thrusts his spite at the face of the victors. Fortunately for them and for the question itself

Le dépit prend toujours le parti le moins sage.

IV

The Argentine Republic has, therefore international title deeds to her right to Misiones between the Paraná and Uruguay, and might claim it besides on the thirty towns the Jesuits possessed from the Rio Tebicuary in Paraguay to the Rio Grande in Brazil, because they were governed by Spain even on the eve of emancipation.

Her titles are, moreover, perfect as to form, for they originate in solemn contracts, such as the Treaties between Spain and Portugal.

They are clear, for they give out as boundaries of what each country possessed at the time of making the treaties, the rivers

in the lower regions, and the highest peaks in the mountains.

While negotiating, both Courts remembered that part of their possessions were imperfectly surveyed as yet, which might give rise to collisions among the authorities, jurisdictionary conflicts, and differences among the boundary Commissioners, and, to prevent all this, they ordered a map to be drawn up over which they drew the line as the boundaries were called—with carmin. There, along that line of a vivid color, by the side of rivers and connecting mountains, ran the frontier. The following is the official and solemn proof thereof:

*" Archives of the State Office of Foreign
" Affairs of Portugal. Instructions for
" London." 1776, 1st serie.*

COPY WRITTEN IN PORTUGUESE

1751. — This geographical chart, which has to remain in the Royal Archives of Spain, and which was used by the Minister Plenipotentiary of His Most Faithful Majesty on adjusting the Treaty for the division of boundaries in South America, signed on the 13th January 1750. And, whereas, in the said chart may be found *a red line which shows, and passes through, the places where the division has to be made*, AND WHICH THROUGH BEING PREVIOUS TO THE BOUNDARY TREATY AFTERWARDS SIGNED, does not agree therewith as regards passing at the foot of

the mount Castillos Grandes, to find the head of the Rio Negro and to follow thereby until reaching the Rio Uruguay, for the purpose of finding the source of the Rio Ibicuy, in accordance with the said Treaty, it is hereby declared that the said line is only valid inasmuch as it agrees with the said Treaty. And as a permanent voucher thereof, we undersigned Ministers Plenipotentiary of His Most Faithful Majesty and of His Most Catholic Majesty, set our hands and seals. Madrid, 12th July 1751. *Bizconde Thomaz de Silva Tellez, Joseph de Carbajal y Lancaster.*

What doubt can there be as to the sovereign will of Portugal and Spain on dividing Southern America? The international judge, acting as a civil judge in a common plea, will say that there is an unquestionable *title*, as well as an *official map* showing the exact spot, which he will have marked out on the ground itself, without taking into consideration the geographical muddle of 142 years, which has cost fruitless treasures, as judging from an unpublished dispatch, from Commissioner Engineer Cerviño addressed to his superior at the end of last century from Santa Tecla the operations cost the King more than the disputed territory was worth. ⁽¹⁾

(1) Baron Capanema pretends that the exception relating to the line starting from Castillos Grandes and reaching the Uruguay is general and that the whole map is subject to modifications on

V

From this firm ground on which the Argentine Minister of Foreign Affairs maintains the question, Baron Capanema departs as from an abyss. He does not discuss that feature of the diplomatic tradition which rules the whole question and excludes all other kinds of arguments: he returns to his old ground and repeats the intemperate attacks made in 1790 by Colonel Roscio to Lieutenant Albear. Baron Capanema reopens the closed debate with a tendency to personal polemics. The former is extemporaneous, as, the arbitrator once appointed, the representatives of both Countries ought to be the only ones to speak.

The latter is simply an impertinence.

Between these two terms, there is nevertheless one fact: that the Report of the Argentine Foreign Office presented to Congress in 1892 has been violently impugned by one of the highest officials employed by Brazil in the negotiations.

The Argentine Government ought to have taken convenient steps to uphold that document, but this not having been done I now come forward to defend it, both as its

the ground. The text is clear: the map is valid such as it was made in 1749 except in the part of the limit of Castillos Grandes, &c.

author and the criticized statesman, although I am under the disadvantage of not having at hand the Ministerial archives which were the foundation of the solution therein contained. Still, the documents I possess in my library and collection of maps will suffice to fully destroy the impugnation of Baron Capanema.

VI

He acknowledges from the first chapter of his exposition, the existence and efficiency of the title deeds which serve as a basis to the Report of the Argentine Foreign Office. In order to prove the above statement and to avoid any suspicions of a wrong translation.

I quote his own words in Portuguese: «The last treaty of 1777, *which the Argentines, with very good sense claim as explicit, and* we repudiate, without knowing exactly why; states as bases for the demarcation of divisory lines, a ditch opened on the spot, with A GIVEN DIRECTION, and that ditch was called *Pepiri Guasu*; from the point where that ditch commenced, and ran towards the Uruguay, the divisory line was to run from the top of a hill to the commencement of another ditch in an oposite sense, named the Santo Antonio and in search of the Iguassú. »

But although Baron de Capanema acknowledges the title deeds to the property, his

interpretation of it is rather too free. When a legal text is quoted, periphrasis must never be used. It is very dangerous, for the different manner of construing a sentence, or of expressing the sense of a word, may alter, and, indeed, does alter often the essence of the document. That is so in this case; for the Treaty does *not* say "*ditch opened on the spot*;" nor does it mention "A GIVEN DIRECTION" (a point which would be of the utmost importance); nor does it restrict its own text on referring to the heights of the ground, *to a single one*; all this implying a detailed description of the boundary line, which was, on the contrary, expressed in general terms.

Here is, in fact, the article of the Treaty to prove the untruthful form of the quotation:

Art. 8. The domains of the two Crowns being already duly marked out as far as the entrance of the *Rio Pequiri or Pepiri Guazu* into the Uruguay, it was agreed between the two high contracting parties that the dividing line shall follow the waters above the said *Pepiri Guazu* up to its principal source; and from this, by the highest lands, *under the rules given in art. 6*, will follow, to find the current of Rio San Antonio, which runs into the Grande Curituba, by other name called *Iquaçu*, following this, down stream, to its entrance into the Paraná, by its eastern bank, and then continuing up along the Rio Paraná itself, up to the spot where it unites with the Rio *Igurei* on its western bank. »

The rules of art. 6 refer to the neutrality of a certain zone between the two domains.

VII

Baron de Capanema then proposes the following question: .

«It remained to be known where Their Majesties had gone to find *the direction*, the position, and the names of *Pepirí Guazu* and *San Antonio*, to adopt them as the dividing line, so as to be able then to judge whether there had been any mistake in the choice.»

He adds that since the trip taken by Albar Nuñez Cabeza de Vaca, from Santa Catalina to Asuncion in 1541, there were news of the *Pequiry* for they warned the “Adelantado” not to pass that river where the indians watched his arrival to eat him up.

This is a picturesque reason.

I do not believe in South American anthropophagi created by the fancy of certain heroes to magnify their adventures.

The scientific reason is quite different, and is not favorable to Baron Capanema.

In Chapter XI of the celebrated book “Comentarios” of the “Adelantado” Alvar Nuñez Cabeza de Vaca, on the two expeditions he made to the Indies (to Florida and Paraguay) printed in Valladolid in 1555, may be found

the itinerary and reference to the arrival to the Río *Piquery* (sic) from the banks of which he advanced till he found the *Iguazú*, *not far from the fall*, famous ever since.

Were it to be marked out in the official map of the disputed Misiones, that route running in a W. N. W. direction however sinuous it might be, cutting through the *Pepiry Guazu* (sustained by the Argentines) would carry us to the *Iguazú*; whereas if drawn from the *Pepiry* claimed by the Brazilians below the *Uruguay Pitá*, it leads inevitably to the Río Paraná, without reaching the *Iguazú*, unless the direction of the caravan were changed Northwards.

Consequently, the Río *Pequiry* crossed by Alvar Nuñez, was the eastern one, the one claimed by the Argentines: and it is shown by the very same quotation of that renowned "Adelantado," made by Baron Capanema, that in 1541 both the Spaniards and Portuguese knew as Río *Pequiry*, the one that runs into the Uruguay above the *Uruguay Pitá*. ⁽¹⁾

Respecting Río San Antonio, Baron Capanema says it was unknown until 1759.—The boundary Comissioners of that period gave it the name.

Quite so!

(1) See the annexed map.

VIII

Following up the analysis of the sources from which Their Majesties might have derived information for drawing up the Treaties, he adds :

« In 1775, the *High Cosmographer of the kingdom of Spain*, Don Juan de la Cruz Cano y Olmedilla, *by command of the King, his master*, published a map of Southern America in which are traced the *Pepiry Guassú*, (on the same spot given by the maps of the Jesuits) and the *Pepiri Mini*, as well as the San Antonio. »

This map wrongly (as I will show) has those rivers drawn in the positions claimed by Brazil, just as it represents Patagonia as *Modern Chili*. Besides, even modern maps contain considerable mistakes on Countries already explored; and in our own Argentine schools and colleges, geography has been taught during ten years, and is still taught, with foreign maps, some of which show in Misiones and the Andes the boundaries as claimed by Brazil and Chili.

No wonder then that Olmedilla should show such carelessness in 1775 respecting unexplored regions having no interest for European science.

On the other hand, these errors would be unpardonable in a map drawn up by the

High Cosmographer of Spain by Command of the King his master ; but these are Algerian Tales of Baron Capanema.

Olmedilla was never either High Cosmographer of the King of Spain, nor even astronomer, nor navigator, nor discoverer of unknown lands : he never left Europe. He was never a *savant*, but an artist ; he was not a creator, but could draw well ; for he never was a *geographer*, but an ENGRAVER. We must not confound Mouchez with Goupil.

The geographical Chart of Cano y Olmedilla is, however, the touchstone of Baron Capanema's arguments. He quotes it in every chapter, he makes of it a set off to every decisive argument of the Argentine Report, he persistently repeats that it was drawn up by order of the king, and affirms, finally, that it was the *Map of the Courts*, intended to become the basis of the demarcation.

A brief analysis of documents and of the Map itself will plainly show the contrary, as well as it will show the want of geographical studies revealed by Baron de Capanema who, jointly with General Garmendia, presided for seven years over the International Commission of Boundaries.

IX

Olmedilla never reached the celebrity attained by his brother the Andalusian composer of theatrical farces. This latter holds an honorable place in cyclopædias and annals both Spanish and foreign, while the engraver's name passes unnoticed. He was however, a local celebrity, within Madrid, and that is why Barcia, in his biographical notices says:

« Juan de la Cruz y Cano *engraver of plates*, Spaniard, educated at the Academia de San Fernando, pensioned by Fernando VI, Died in 1790. His most important work was the *Collection of stamps*, representing the costumes of the Spanish provinces, &c. »

Baron de Capanema, justly praises also the splendid engravings ornamenting his mural Map of South America, which constitute one of his greatest merits. I have been unable to find any Royal document by which Olmedilla received the order of drawing up the geographical chart of Southern America. It was not official, nor the result of personal explorations, but a reproduction of, and compilation from, foreign maps, based on the works of the French geographers de L'Isle, d'Anville, and Bellin, all very remarkable and sought after by Spain and Portugal.

Its very title shows it to be so, and I take it from the copy asked from the Minister of State of Spain, and friendly offered and dedicated to me in 1882 by H. E. Mr. Enrique Dupuy de Lome now Minister of the Mother Country in Washington.

« Geographical Map of Southern America arranged and engraved by Don Juan de la Cruz Cano y Olmedilla pensioned geographer to H. M. Fellow of the Royal Academy of San Fernando, and of the Basque Society of Friends of the Country—with the assistance of several maps and original notes.

Subject to Astronomical observations.
Annum 1775. »

The reference to “*the assistance of several maps and original notes*” shows that it was a compilation; and Olmedilla not being an authority, for want of technical or political ability of judgement, the faults exceed the merits of his private work or scientific propaganda. “*Pensioned geographer to H. M.*”, does not imply that the work was arranged and engraved by “*order of the King his master*”, it meant simply a form of advertising himself. The name was given, indeed, of “*pensioned by H. M.*”, to those who studied in the Academy of San Fernando, or abroad, with pecuniary assistance from the Royal Purse. Previous to Olmedilla, Don Thomas Lopez had pub-

lished a geographical work of very great value and more authority than the Map of the former, in which he was often copied.

Its name is:

« Atlas Geographico de la America Septentrional y Meridional dedicado á la Catholica, Sacra Real Majestad, de el Rey nuestro señor, Don Fernando VI por su más humilde vasallo, Thomas Lopez, pensionista de S. M. en la Corte de Paris. Año 1778. Se hallará en Madrid en casa de Antonio Sanz, Plazuela de la Calle de la Paz. » ⁽¹⁾

Geographer, not *engraver*, like Olmedilla, and yet he did not venture to trace the boundaries of the Treaty of 1750 without absolute certainty, and said:

« Those provinces, the boundaries of which are fully settled, I mark in the usual way, with dots: those whose limits are unknown it is impossible to mark, so that I leave them open for them to be closed when the boundaries are settled. »

In this case is the territory of Misiones, in the plate I of pag. 108.

(1) « Geographical Atlas of Northern and Southern America, dedicated to the Catholic, Sacred and Royal Majesty of the King, our Lord, Don Fernando VI by his most humble vassal Thomas Lopez, *pensionier to H. M. at the Court of Paris*. Year 1778. To be had in Madrid at the house of Antonio Sanz, Plazuela de la Calle de la Paz. »

Lopez studied at the most celebrated geographical school of the period, at the head of which was Sieur d'Anville in Paris.

Olmedilla declares in his « *Notes for understanding this map* » printed at the margin thereof, as follows: « *And as regards the course of rivers, extension and boundaries of the realms and different provinces comprised in that vast continent, several geographical and topographical maps drawn up with the greatest exactness have been had recourse to, as well as notes of learned persons who have travelled through them &c.* »

In 1775 the territory of the Pequiry or Pepiry Guazú had not been explored, by anybody foreign to official service so that no such private maps existed that might enlighten Olmedilla as to the position of rivers picturesquely drawn, as if they were costumes of Spanish Provinces. That notice referred, consequently, to the most populated and better known parts, and the map cannot be taken as a precedent about Misiones.

X

Olmedilla's map of Southern America has not even deserved the honor of being quoted in the negociations of the Treaty

of 1777, which was signed two years after the date of its publication, and remained in the public archives, which it never left and does not leave even now, without special orders from the Minister of State in Madrid, which seems to indicate that the Government of Spain disapproved of its political and geographical errors.

The boundary commissioners in 1784 did not heed it any more. In the question of the river *Iguerey*, the gordian knot of the limits in Paraguay, the eminent geographer Azara and the Spanish Commissioner Varela y Ulloa were guided by the map of Southern America of Sieur D'Anville, and in no way by that of Olmedilla. This is again an eloquent proof of disapproval of that document.

In the ardent and historical discussion between the Spanish and Portuguese Commissioners in 1790, Colonel Roscio quoted—in support of his arguments—Olmedilla's map and in the dispatch bearing date the 6th October of that year, the Spanish Commissioner Albear replied expressing the contempt with which the Spanish geographers regarded that work devoid of all political authority.

«Bouger, La Condamine, and Anville—he said—«were never in this province nor did they ever pass the borders of the Uruguay. How could their Charts refute the se-

ries of our surveys and observations? Still less that of Cruz, an adherent in this respect to the mistakes of the previous demarcation, as having been drawn up at a later date and in accordance with the same information. »

Indeed, the want of political sense on the part of the engraver Olmedilla is absolute, for in 1775 he gave out as limits in Misiones those erroneously surveyed in 1759 by two subaltern officials of the Boundary Commission, and which the solemn Treaty of 1761 had declared null and void. Olmedilla therefore, went decidedly against — and perhaps unconsciously — the decisions, the choice, of Their Majesties the Kings of Spain and Portugal.

Don Felix de Azara was, beyond any doubt, a celebrity, and represented the interests of Spain in the demarcation of 1784 on the part of Paraguay. His chief scientific work, historical and political, on South America, was translated into French and edited in Paris by Dentu in 1809 with notes from the great Cuvier. The German *savant* Walkenaer directed the edition and preceded it with a preface. Gaetano Barbieri put it in Italian in 1817 and published it in vols 33 and 34 of his *Raccolta de viaggi piu interessanti eseguite nelle varie parte del mondo*. Azara also mentions contemporaneously Olmedilla's Chart. Walkenaer, in the

introduction he wrote for that work, *Voyages dans l'Amérique Méridionale*, gave the following opinion:

« The Chart of Southern America of Don Juan de Cruz, engraved in Madrid in 1775, but not published, and which d'Anville never knew, shows evident improvements in the geography of Paraguay, and of the Government of Buenos Aires, *but it is full of gross mistakes and is far from supplying any exact drawing of those regions*» (*Notice on Don Felix de Azara, vol. I page 21*).

The *line* between the domains of Spain and Portugal in South America started from the Plate and reached Venezuela. I have carefully perused the official compilations of Seijas on the international law of Venezuela, that is to say its boundary quarrels with Brazil, Colombia, and British Guiana, without coming across, even once, any mention of Olmedilla's Map. Requena, Commissioner of Spain in the demarcation of 1784, in the North of Ecuador, wrote a Report proposing a scheme for the *modus operandi* throughout South America.

This document, remarkable in the history of American sovereignties, does not even mention the artistic work of Cruz Cano.— Quijano Otero, in a book on the limits between Colombia and Brazil, one of the most remarkable expositions produced in

the course of the debate of Spanish American international law, mentions Olmedilla in a general enumeration of precedents, without according to it any special importance and still less an official or decisive one.

XI

He has not had better luck among diplomats. I have stated before that in a certain part, west of the Andes, or on the Andes themselves, Olmedilla wrote *Modern Chili*, ignoring what was ordained by royal legislation, as he had forgotten the Treaty of 1761, when giving out as valid the demarcation of 1759.

It was quite natural, consequently, that Chili should adduce it as an argument in support of her pretensions to the vast Argentine austral region, and in the solemn debate, more academical than diplomatic, sustained in Santiago from 1872 to 1874 between Drs. Feliz Frias, the Argentine Minister, and Adolfo Ibañez Minister of Foreign Affairs in Chili, this map obtains a passing mention.

Notwithstanding an error so favorable to Chili as the one I have recorded, Dr. Ibañez, one of the most learned statesmen of that Country, whose name is an authority in

America, he neither gives Olmedilla the pompous title of *High Cosmographer of Spain*, nor does he affirm that his map was drawn up "*by order of the king his master*", nor that it may have any more weight as evidence than that of an opinion of the last century about Spanish American jurisdictions, as may be seen in his dispatch of 7th April 1873. Dr. Ibañez agreed in this point with the opinions of the learned and careful writer Don José Luis Amunategui, who brought to bear the map of Olmedilla in his discussion with Drs. Santibañez and Salinas of Bolivia on the limits between that country and Chili.

Dr. Frias, who in his first answer declared the map in question to be unknown, criticised it in another communication in which he referred to the answer given by Dr. Salinas to Sr. Amunategui stating that the Spanish monarchs did not frame their jurisdictional legislation through geographical maps.

He adds:

«Having reference to the date in which Olmedilla's map was printed, it may be remarked that through its being previous to the creation of the Vice Royalty of Buenos Aires, no credit whatever can be attached to it with regard to the point we discuss.»

Mr. Amunategui himself had stated:

«The authority of the Royal decisions themselves respecting the different jurisdic-

tions, can only be quoted in opposition to what they state: everything else is worthless.»

In 1838 when Don Pedro de Angelis was collecting documents concerning the History of the River Plate, he studied this map, and pronounced himself against its veracity in the preface written for the "Description of Patagonia" of the South American Livingstone, the Jesuit Thomas Falkner.

If the Spanish-American demarcators in 1784 wilfully ignored in their labors—as I have shown—the map of Olmedilla, Baron Capanema could not arrive at the following conclusion, viz:

«The Treaty of 1777 appealed to by the Argentines could only be considered as drawn up in view of this map, which, as regards the two rivers is correct, and which bore for the *Spaniards an official character*.»

But the Treaty says nothing on the subject; the instructions are equally silent, and the attitude of the Spanish Boundary Commissioners first, and of Spanish-American diplomatists afterwards, are against Baron Capanema.

XII

These observations can be applied with similar efficiency to the daring conclusion

come to by the Imperial Geographer with reference to Olmedilla's Map.

« *The Map of Olmedilla*, he states, *is the Map of the Courts*, spread about in many copies, all over the world (*urbi et orbe*) and not a manuscript that might be alleged to have been substituted in any Record Office or even disfigured. »

No!

It has been shown that Olmedilla's map was not officially accepted by Spain or Portugal for the celebration of the preliminary treaty of 1777. Baron Capanema will never be able to ascertain the existence of an understanding between the two Crowns that might give it the international character required to confound it with the true and sole *Map of the Courts* incorporated into international law. Baron Capanema knows, because he can read, that both Brazilians and Argentines have always agreed in calling *the Map of the Courts* the map ordered by the Monarchs to be drawn up BEFORE the signing of the boundary treaty in 1750 as stated in the agreement I have quoted in chap IV. This map is of the year 1749, and it had never happened that any diplomatist or writer, whether Portuguese or Brazilian, up to 1893 when Baron Capanema spoke, had ever mistaken it with Olmedilla's map

of 1775. And this confusion was never dared to be made before, because such arguments, far from improving the case into which they are admitted, weaken it, giving rise to opposite impressions. Indeed, how can the map of the artist Olmedilla be mistaken for the official map forming *a principal and leading part* of the demarcation of limits between Spain and Portugal referred to in the Convention of Chap IV and the following?

« Terms drawn in Madrid on the 12th July 1751 by the Plenipotentiaries of Their Most Faithful and Catholic Majesties *on the margins of the geographical Chart that was used to adjust the boundary treaty of the conquests*, on the 13th January 1750. »

« . . . That at the beginning of the conferences that preceded the adjustment and final conclusion of the *boundary treaty of the conquests*, we the two Ministers Plenipotentiaries Thomas da Silva Telles, Ambassador of the Most Faithful King, and Don Joseph de Carvajal y Lancaster Minister of State of the Catholic King, declared, that it would *be impracticable to proceed in the serious matter of their Commission until they examined AND REDUCED TO A DEMONSTRATIVE CHART, WHICH WERE THE COUNTRIES UNTIL THEN OCCUPIED by the vassals of the two Crowns interested, so as to negotiate and conclude on the demonstrations of the said chart what each of them had to give up or receive.* That

consequently the said chart had been formed by engineers, geographers, and able and well informed persons of both nations.

«That it was in view thereof (the aforesaid chart) that the said plenipotentiaries had continued their conferences.»

Such is the only document recognised as the *Map of the Courts* in Spanish American International Law.

Baron Capanema shuns this map as blazes, fearing to become speechless in the presence of the red line that marks out which were the countries that the monarchs possessed and wanted to keep at the time of signing the treaty of 1750. Among those countries the territory comprised between the four rivers, was reserved to Spain whatever name may have been given to each of them by subsequent explorations.

XIII

But although Baron Capanema does not take into consideration this graphic and unquestionable side of the Argentine titles, he does not forget to insinuate, as an insult inspired by the rage of defeat, that that *manuscript* map might "*have been substituted in some Record Office, OR EVEN DISFIGURED.*"

Neither Spain nor the Argentine Republic deserved such base suspicion. Civilized as they are, they have always conducted themselves with the dignity and good faith required by the fundamental laws of high morals recognised all over the world. Their statesmen may have been mistaken in judging a document; but they never have been guilty of the abominable misdemeanours hinted at by that unpremeditated sentence. Brazilians themselves, never indulged in such an idea, confining themselves to the admission that the map existed, but that it was lost.

In truth, in Spain it did not appear, and Portugal locked up her ancient archives and Record Offices to prevent anybody turning against her with that international document, clear, peremptory and final, in her American boundary quarrel with Spain.

After the Treaty of Paranhos-Lopez and Derqui, enacted in Paraná in 1857, a so-called *Map of the Courts* was circulated, on which the line was on the western or Brazilian Rivers, thus modifying the authentic one registered in the protocols of 1751, referred to in the additional Treaty I have quoted. That map was apocryphal and drawn up in bad faith, but it has never occurred to Argentine statesmen or writers to accuse either Portugal or Brazil of such an action. We have scarcely

considered it as a contemptible anonymous production.

As regards the map fruitlessly sought for in Madrid, it is not lost, nor has it been substituted for any other, nor *even disfigured*; because although the Argentine Government also thought it lost, when I had the honor of taking possession of the portfolio of Foreign Affairs for the second time, I commissioned Dr. Thomas Lebreton to search for it in Europe, and the Arbitrator will have it; the authentic, original one, signed and sealed by the Plenipotentiaries on the margins of the chart as stated in the above mentioned protocol.

Baron Capanema will then understand, at last, how far it was right on the part of the Argentine Minister to adopt new tactics in defence of the claims of his country, leaving aside the equivalent irreconcilable negatives and affirmatives of the Commissioners on the field, in order to reduce the matter to a mere question of law, based on titles bearing all the essential and graphic conditions to settle the question easily and categorically. And this will not be the only document to be seen by the Arbitrator. The missions I entrusted to the intelligence and the patriotism of Drs. Thomas Lebreton and Charles Aldao to Europe and Paraguay have been most productive, and Baron Capa-

nema will receive in proper time new and edifying lessons.

XIV

Some final observations of mere form were added to the Map of the Courts. Baron Capanema pretends that that Chart is a simple fabrication and adds that it has not been drawn up by *engineers, geographers or competent persons*; he does not prove this, but makes bold assertions in contradiction to the solemn declarations of two Plenipotentiaries, contained in the complementary Treaty I quoted above. The latter must carry full weight in the controversy.

Baron Capanema gives an erroneous interpretation also to the second Treaty of 1751, on the manner of using the Map of the Courts.

This is the document:

«TREATY FOR THE UNDERSTANDING OF THE GEOGRAPHICAL CHART TO BE ADOPTED BY THE COMMISSIONERS APPOINTED TO MARK OUT THE BOUNDARIES OF BRAZIL SIGNED ON THE 17th JANUARY OF THE YEAR 1751 AND RATIFIED BY THE MOST FAITHFUL KING ON THE 12th FEBRUARY AND BY THE CATHOLIC KING ON THE 18th APRIL OF THE SAME YEAR».

The undersigned Ministers Plenipotentiary of His Most Faithful and His Catholic Ma-

justies, in virtue of the full powers we reciprocally exhibited and acknowledged as being to our entire satisfaction DO HEREBY declare that WHEREAS we have been guided by a manuscript Chart to settle this Treaty and the instructions for its execution; for this reason a copy thereof will be delivered to each group of Commissioners of each of the Sovereigns, signed by us, as by that copy and in conformity therewith all the expressions are explained. We do declare likewise that although through news from both Courts we take as most probable many things as stated in said Chart and equally agreeing that some of the territories marked out therein, have not yet been visited by any person living; and others were extracted from charts drawn up by trustworthy persons who had gone over them. but probably not sufficiently able to make proper demonstration thereof in drawings, for which reasons there may be some visible variations on the ground, the situation of mountains OR IN THE SOURCES AND COURSE OF THE RIVERS AND EVEN IN THE NAMES OF SOME OF THEM as it is customary for each nation in America to give different ones, or for any other causes whatever. It is the will of the contracting Sovereigns to hereby agree that whatever variations there may be, shall not prevent the course of execution, but that it shall be done in every point in accordance with what the Treaty states it to be the mind and intentions of Their Majesties and particularly that everything shall be punctually continued as per arts. 7, 9, II and

22. And we, the said Ministers do so, declare and in the name of our Sovereigns and by their command and through their full powers sign it. This declaration will be ratified at the same time and within the same term as that of prorogation of time and the instructions; and copies hereof shall be delivered to the Commissioners of both Sovereigns. In Madrid, on the 17th January, 1751. *Vizconde Thomas da Silva Tellez, Joseph de Carvajal y Lancaster.*

It cannot be understood in what way that Treaty can be favorable to the unforbearing deductions of Baron Capanema. The analysis of its terms leads to an opposite result. In the first place, it declares that the Commissioners were to take a copy of the Chart to the spot, because the Treaty itself and the *instructions* for its execution had been drawn up as per the *red line* of the said map.

That is what the Argentine Government maintains.

It further states, so as not to leave the slightest doubt concerning the importance of this Chart, that it forms a substantial part of the Treaty and of the instructions, *because in conformity therewith all the expressions are explained*, that is to say the names of places, rivers, mountains; the course of the line, in fact.

This is equally favorable to the Argentine Republic.

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The last part has been wrongly construed by Baron Capanema. He knows that the situation of the rivers in the Map of the Courts is adverse to the Brazilian pretensions, and then *he supposes* that the document is wrong on that point. He then gives expression to the opinion that the boundary Commissioners had to rectify it when exploring the ground.

The authority of the boundary Commissioners to rectify the errors of the Map is beyond discussion, and I accept Baron Capanema's reasoning on the subject.

But the boundary Commissioners could not act arbitrarily; they had to abide by the will of the Kings expressed in the following very plain sentence: « *In every point in accordance with what the Treaty states to be* THE MIND AND INTENTION OF « THEIR MAJESTIES, » and as Their Majesties had traced for the more precise expression of their wishes, the limits of what they possessed and agreed to keep, with a *line of carmin.* in the registered map, it is obvious that the said line was to be considered as the graphic expression of the royal *mind* and of the sovereign *intention* even though the names of the rivers within those *possessions* might be substituted by others, which could not modify the area of what they respectively occupied.

Consequently, the line must run alongside the rivers claimed by Spain and Argentina, absolutely ignoring the Portuguese want of conformity respecting their names, because that is the *line* of the Map of the Courts, which gave them the whole territory now under discussion.

This is the proof, in fact, that the weapons used by Baron Capanema hitherto turn against his arguments, destroying them with an iron logic.

XV

This set of documents would create an impression, no doubt, on an ancient sophist or a humanist of the middle ages.

Baron Capanema does not even deign to take it into consideration and insists on affirming the following :

*« Now, that being the map that guided
« the first demarcators (it is a victory for us
that Baron Capanema should recognize
that there was a guiding map, thus giving
up that of Olmedilla), « made on doubtful
« informations » (nobody had ever dared to
doubt of them before him), « what reliance
« can be accorded to instructions based on
« them ? and where are those instructions ? »*

The Arbitrator will soon let him know what reliance can be placed on the agree-

ments of Royal wills set forth in solemn Treaties and on instructions that were likewise a part of the same legal acts. Baron Capanema, who doubted in Chap. I. of his statement as to the existence of the Map of the Courts, previous to the Treaty of 1750, gives in at last, acknowledging its existence, and adds that it guided the Commissioners of 1750. This acknowledgement of Argentine right is, however, conditional.

Where are those instructions? he naively inquires. So, after presiding for seven years over the Commission of Brazilian demarcators, Baron Capanema is unacquainted with the instructions given to his predecessors in the international exploration? The Arbitrator will be better informed, as it appears that the Imperial Geographer has made incomplete researches in the Archives, doubtlessly because it is an arduous task, as Oyarvide stated in 1791 when the Portuguese abandoned the field and gave him up to hunger, before the Map of the Courts : *Inquirire et investigare pessimam occupationem Deus dedit hominibus.*

Baron Capanema understands that the Argentine Minister falls into a contradiction on recognizing that the Treaty of 1750 and all *its consequences*, were annulled by that of 1761, and quoting at the

same time the map used as a basis for the negotiation.

There is not, however, any contradiction between those arguments, because the annulment applied to the Treaty of 1750 *and subsequent acts derived therefrom*, but not to *previous* acts found and accepted when the Treaty was made. The document of art. IV states that the map had been made *before* the celebration of the Treaty of 1750. Moreover, the Treaty of Friendship, Guarantee and Commerce, signed on the 24th March 1778, ordained in art. 3 and 4 the revalidation of art. 25 of the Treaty of 1750 in what concerned the *possessions* and limits of both States in America as stated in that map.

The said articles 3 and 4 state as follows:

„ With the same object of satisfying *the engagements taken by the old Treaties, and others they refer to and are subsistent between the two Crowns* it has been agreed between His Catholic and most Faithful Majesties to explain the sense and force thereof: and to bind themselves as they do hereby, to a reciprocal guarantee of all their dominions in Europe and adjacent islands, royalties, privileges, and rights now enjoyed by them therein, as well as to renew and revalidate the guarantee and other points established in art. 25 of the boundary Treaty of 13th January 1750 which will be copied hereafter comprising the boun-

daries therein stated respecting Southern America, in the terms lately stipulated and explained in the preliminary treaty of 1st October 1777; the said article 25 being as follows. »

« For the fuller security of this Treaty it was agreed between the two high contracting parties to reciprocally guarantee to each other all the frontiers and adjacencies of their dominions in South America, as hereinbefore expressed, binding themselves to help and assist each other against any attack or invasion, until he shall in truth enjoy a peaceful possession and free and full use of what may have been threatened: and this obligation as regards the sea-coasts and adjacent countries thereto, on the part of His Most Faithful Majesty shall extend to the borders of the Orinoco on both sides, and from Castillos to the Strait of Magellan; and on the part of His Catholic Majesty shall extend to both margins of the Rio Amazonas or Marañon and from the said Rio Castillos as far as Puerto Santo. »

« But referring to inland regions in Southern America this obligation shall be indefinite and in any case of invasion or rising, each of the two Crowns shall help and assist the other till affairs resume a state of peace. »

« Art 4. Should any of the high contracting parties — apart from the case of being invaded in the lands, possessions and rights comprised in the guarantee of the preceding article — enter into war with

another power, the party hereto not having any part in the said war, will only be obliged to keep and preserve in her lands, ports, coasts and seas, the most strict and scrupulous neutrality ; reserving for the cases of invasion or dispositions concerning the domains guaranteed, the reciprocal defence to which both sovereigns are bound in virtue of their engagements which they wish and promise strictly to keep, without failing to observe the Treaties now subsisting between the high contracting parties and other powers of Europe. »

The boundaries of the possessions, the whole enjoyment of which the Kings, undertook to defend reciprocally were those existing before the Treaty of 1750 and divided by the carmin line of the historical map.

The Argentine Government has consequently been quite justified in invoking it without falling into any contradiction, as it is a document absolutely in force and kept so by subsequent treaties.

XVI

The Baron then takes up the entangled muddle of geographical explorations.

The discussion thereon is quite useless, for it throws us into an endless road in which each party will maintain or deny respectively what suits it.

I will however, make some pertinent observations on the errors of the eminent Geographer of the Empire, who does not seem to enjoy the same reputation under the Republic. It will be a slight literary pastime, although, in truth I have not much time to spare.

The royal pilots and boundary commissioners of Spain inspire him with very slight respect. Of Gundin he states that he did not use very *decorous* means; of Varela he says that far from discovering anything, he muddled up the question, disobeying his instructions, and that he threw a black stain on the ever merited reputation of Castilian loyalty and chivalry; of the interpretations of the treaties of 1750 and 1777, that they were *insidious* and inconsequent; of the Spanish Commissioners he says they had intentions of *usurpation* and employed *humbug* to secure them; of the situation of the Pipiry Guazu sustained by them, that it was malicious; of Oyarvide, that his report reveals the usual bad faith of the Spaniards, that they are *daring and of poor intellect*; of Buenos Aires, that in this capital with respect to this matter, *ignorance, caprices and personality* were in action; and of the *Uruguay Pitá* that it is the Pilatus of the Argentines.

It must necessarily be acknowledged that his vocabulary does not throw great light

on the geographical question; but leaving aside this aggression to the dead, and giving slight heed to the protest of the waters of the *Uruguay Pitá* against the unjust pretensions of those who so treat it, let us take into consideration what he ascribes to the living.

He states in par: II

«Another point insisted upon by Dr. Zeballos (by the Argentine Government would have been more properly said) is to bring as a testimony of Argentine rights a kind of Pilatus. It is the Rio Uruguay Pitá, the beacon adopted by the humbug of Spanish functionaries to determine the position of the Pepiry Guazú.»

No! that beacon was adopted by the complementary treaties, and in the Map of the Courts initialed on the margin by the sovereigns of Spain and Portugal.

Pilatus thus becomes an unappealable judge.

Baron Capanema however, continues as follows:

«Those humbugs (the Kings of Spain and Portugal) state that the Pepiry is above the Uruguay-Pitá, *and that it is proved by the Map of the Courts, a manuscript, which as we have already seen by the Treaty of 17th January 1751 cannot be relied upon*».

It is necessary to enlighten the Chief Brazilian Commissioner of 1885 on the labors of two international Commissioners of 1759. The Map of the Courts was in their hands and they stated in a signed document, which is therefore a State paper, what Baron Capanema denies or doubts without any show of reason. Those Commissioners were Don Francisco de Arguedas for Spain and Colonel Don José Fernandez Pinto Alpoim for Portugal.

The following is their unquestionable international testimony on the *false Pepiry Guazú* or rather their plain confession that although they had before them the *Map of the Courts* they knowingly departed from the red line ordered thereby to be traced on the ground:

«We do hereby declare that we recognize this present as the Rio Pepiry determined by art. 5 of the Boundary Treaty, as the frontier of the domains of His Most Faithful and His Catholic Majesty, and consequently that the demarcation commenced in the Town of San Javier and followed up stream above the Uruguay and as far as its mouth, must continue following its course to reach the head thereof, NOTWITHSTANDING THAT ITS REAL POSITION IS NOT IN ACCORDANCE WITH THE INDICATIONS OF THE MAP OF DEMARCATION GIVEN BY THE COURTS, &. &.

From the documents commented upon, the inability of the Commissioners appears

evident as they had the audacity of altering the *mind and intention* of Their Majesties, erasing the red line where they had traced it, to place it about sixteen leagues further west, which amounted to a diminution of the area of present (when signing the Treaty) Spanish *possessions* which the kings had expressly agreed to keep, as has been shown in previous chapters.

There was, then, in 1759 a Map of the Courts that guided both parties. Why does Baron Capanema accept and deny it alternately? And even this negative is contradictory, in view of the persistency he shows throughout his exposition in maintaining that that map was the one published by Olmedilla in 1775. Indeed the Baron says;

« All that, is, in fact, marked on Olmedilla's map, and those *in charge of the demarcation* had nothing more to do than to place on the ground signals corresponding to those marks. To deviate therefrom was to disobey the orders they had ».

Here is the confession by which Baron Capanema declares his cause lost, as he finally admits that the boundary Commissioners of 1759 had to abide by a map which contained the tracing of the boundary and that they failed in their duty when departing from its text. The rest is reduced to the substitution of the name of Olmedilla for that of Map of the Courts, in ac-

cordance with the conclusive documents I have quoted.

XVII

Baron Capanema then continues, excited by the doubts produced in him by all the Argentine arguments:

« H. E. refers to the instructions that were given to the boundary Commissioners of 1750, and states that in them is mentioned: a voluminous river, a mountainous island in front of its mouth, and a great reef opposite its bank.

« It is to be regretted that H. E. did not copy the complete text of those instructions, *the existence of which is doubtful*, whereas those particulars were sufficient for the boundary Commissioners to recognize without any doubt, the Pepiry ».

He had previously *denied* the existence of those instructions and now only takes them as *doubtful*; but the truth is that Baron Capanema is acquainted with them, Otherwise, he would have incurred in the responsibility of being ignorant of the precedents of the demarcations of the 18th Century and of having fulfilled the technical commission of 1885 without sufficient elements of study.

The instructions, the whereabouts of which the Argentine Minister will communicate to the Arbitrator at the proper time, were not denied, nor doubted, however, by the *Portuguese* Commissioners, as may be seen by the discussion between Commissioners Roscio and Albear, which I do not quote because it is too well known and can easily be consulted by anybody.

The international surveyors of 1885 themselves have not repudiated them, but, on the contrary, followed them on the ground to find out the real Pepiry or Pequiry Guazu.

Baron Capanema himself finally takes them into consideration and discusses them in his long and minutely argued writing.

He examines indeed, the *joint* conclusions of the Argentine-Brazilian Commission on the characteristics of the mouth of the Pepiry and affirms the following:

«That reef presents itself majestically crossing the Uruguay opposite the mouth of *our Pepiri to confound the humbug of the Spaniards* and of those who unite with them».

The Baron adds the plan of the said mouth, entitling it as of the Argentine-Brazilian joint Commission, in which plan the characteristics of the instructions are drawn after his interpretation.

Our National interests were represented in that exploration by Colonel Don Jorge Rhode, and he, in the absence of Commissioners Garmendia, Virasoro, and Seelstrang, addresses to the Baron the following definitive rectification, viz:

Buenos Aires 10th April 1893.

Sr. Dr. Don Estanislao S. Zeballos.

Distinguished Sir and friend: I have read with unfeigned surprise the exposition published by Baron Capanema of the Misiones question, full as it is of strange affirmations on the part of an engineer and geographer so learned as the Baron, and I thank you for the opportunity you offer me by your request, of clearing up the point concerning the Bank at the mouth of the Pepiry Mini.

The plan of the mouth of that river was drawn up, as well as of the whole territory under litigation, jointly with our Brazilian colleagues. In the early days of our labors we remarked something below the mouth of the Pepiry and at a short distance from the right bank of the Uruguay, a small stone bank covered with «sarandis», a bush growing in the Upper Uruguay on every bank and reef.

Our work was interrupted by heavy rain, and we perceived next day that the bank above mentioned had disappeared under the waters of the Uruguay. Later on,

being in charge—jointly with my honorable Brazilian colleague, captain-lieutenant Frederick Oliveira--of the soundings, &c, we could ascertain that the said bank forms part--somewhat prominent, and higher--of a reef beginning on the right margin of the Uruguay, *below* the mouth of the Pepiry-Mini, and crosses it almost entirely in a south westerly direction.

I have been with my colleague on the surface of that Bank and I appeal to his testimony to state whether there was on it earth enough with which to fill a flower-pot.

True it is that when the plan of the mouth was drawn up, the Brazilian Commission wanted to give the bank the name of «island», but it is equally a fact that the Argentine Commission protested, and that the plan, signed by all of us, Brazilians and Argentines, and deposited in our Government archives, calls a bank what is really a bank.

I should wish to have been able to enclose in this letter the traverse sections of the lines which, following the course of the rivers Pepiry-Mini and Pepiry Guazú in their last direction, cross its bar, consequently crossing both the reef and the island which must be respectively in the mouth in front of the bar of the river shown in the instructions of 1750 as a frontier river.

These plans would have been far more illustrative than those published by Baron Capanema.

I regret being unable to comply with my wish, as the precise information for drawing up those traverse sections are all now in the hands of our Envoy Extraordinary H. E. Sr. Nicolas A. Calvo.

However, as I have cooperated in drawing up the plan of the mouth of the Pepiry Miní and have been besides entrusted with drawing up the plan of the mouth of the Pequiry Guazú (the Chapecó of the Brazilians), soundings, the levelling of the island and of the construction of the side and longitudinal sections—under the command of my distinguished friend the present Argentine Surveyor in Chili Don Valentin Virasoro—I am enabled to affirm even without drawing up those plans, that the said line, drawn after the course of rio Pepiry Miní, reaches the left coast of the Uruguay without any interruptions caused either by reefs or banks of any kind, and still less by any island. On the other hand, if we draw the line after the course of the Pepiry Guazú, we shall find that it passes near the bank, within the mouth of the river, over reefs visible from the Uruguay and which cuts opposite the bank the extremity of a large mountainous island situated in the middle of the Uruguay. We may state as

a passing remark that this island is the most important one from the Pepirí Mini to the Pequirí Guazú, and is consequently the most suitable to serve as a signal for a river, the geographical situation of which is not completely known.

You are too well versed in this matter, sir, for me to draw the conclusions deducible from the aforesaid data. I only hope they may be of some use.

Believe me your obedient servant.

GEORGE J. RHODE.

Colonel and Ist. Adjutant of the Boundary Commission.

Baron Capanema is thus placed in a difficult position.

In any case, the above letter confirms the details of the Map of the Courts, according to which that *island* must exist in the mouth of the boundary river, all I have said being sufficient commentary thereto.

The conclusions transmitted to the Argentine Government by General Garmendia, the Chief Commissioner, are to the same effect, and I regret not to be able to quote them here as I cannot dispose of the Archives of the Foreign Office. The second Argentine Commissioner Don Valentin Virasoro in charge precisely of this part of the explorations, wrote a paper for the *Bulletin of the Geographical Institute* in 1892, which has been accepted by Baron Capanema, he

having only made a slight observation to it concerning instruments. Mr. Virasoro's study is official, not only on account of the position he held in the explorations, but also because he sought and obtained leave of the Foreign Office to deal with the matter through the press.

He stated the following:

«As, according to the precedents supplied by the surveyors of last Century, the real Pepiry Guazú was indicated in the instructions they brought by special signs of its flowing into the Uruguay; these signs being *the existence of a mountainous island opposite its mouth, a reef within its bar and the fact of its being up stream above the Uruguay-Pitá*; these signals having been really found in the true Pepiry Guazú, *our colleague, being bound to acknowledge the evidence of these facts as to the reef within the bar and as to the mouth being above that of the Uruguay-Pitá*, he thought he might weaken the other sign respecting the island, by denying that it was opposite the mouth of the Piquirí-Guazú.

.....
.....

«This difference of interpretations was without any importance, as in the partial plan drawn up the fact was evident.

«According to that plan the situation of the island, one of the most remarkable in the Uruguay, is such, that were two lines drawn from both extremes of its mouth

(210 metres) perpendicular to the course of the Uruguay, they would both cut the Northern part of the island, thus leaving the intercepted part opposite the mouth, the island still extending further down.

«Such is the fact acknowledged as such by the two Commissioners, and shown in the partial plan drawn up. In presence of the evidence there of it matters little that the interpretations should differ».

A poor part for Baron Capanema's little plans.

It has been discussed on this occasion whether the mouth of the Uruguay is or is not above the Pepiry or Pequiry of the Brazilians. The argument is destroyed if the reader remembers what is stated in the *Map of the Courts* and instructions annexed to the treaty of 1750, in which documents the river in question is situated above the boundary claimed by the kingdom of Portugal.

I must further remark that the Commissioners of 1759 committed the error of taking another river for the *Uruguay-Pitá* but this mistake was cleared up by the first Commissions of 1784 and both *Portuguese and Spaniards, jointly*, owned that the *Uruguay Pitá* of the *Map of the Courts* is the very same the Spaniards held it to be, and the Argentines now defend.

The Brazilians, uselessly, also call it *rio Das Varseas*. The divergence of opinion

was therefore settled by friendly agreement between the litigants in the demarcations of 1784 and 1885: twice in one Century; and Baron Capanema confirms it, when declaring in paragraph V of his publication that the *Uruguay-Pitá* is a confluent of the *Jacuy*.

If it were a question of the beacon river of the Commissioners of 1759; viz, the *Mburuy* the fact could not occur of the correspondence of its source with that of the *Jacuy*.

XIX

The lieutenant of the navy Albear and his assistant Don José María Cabrer, had differences and quarrels between them during the surveys, which have transpired in connection with the history thereof.

The fact is so evident, that it explains the disagreement in the interpretations they give to certain points of view as to the *modus operandi*. This antagonism, which existed on the part of Cabrer, did not go so far, however, as to cause a different interpretation of the Treaties, the instructions, or the maps; but Baron Capanema seems to have understood otherwise, and forces the sense of some appreciations of Cabrer in order to support his attack on Argentine rights.

operation were quite clear and explicit. They did not admit such an interpretation. But the object being no other than to elude them, as it had always been, that cunning in which that officer had been well trained, came in just in time. »

Three systems of confluent (*contravertientes*) belong to the sources of the *Pepiry Guazú* (see the map of the litigation).

The first is on the west, and forms the sources of the river called Chopin by Brazil, which turned out not to be the river of the Treaty. The second system runs northward, almost in the direction of the Meridian, and forms the sources of the *San Antonio Guazú* (*Janjada* of Brazil) or the confluent (*contravertientes*) of the *Pepiry Guazú* claimed by the Treaties, the Map of the Courts and instructions emanating therefrom. The third system runs eastward forming the river *Dos Peixes* and is outside the scope of the litigation.

Oyarvide displayed great ability and knowledge, therefore, in discriminating out of that entangled network of confluent (*contravertientes*) of the *Pepiry Guazú*, which corresponded to the international titles, and adopted successfully those running down to the *Iguazú* almost straight to the Boreas.

Cabrer, explaining these facts, has not impugned any title of Spain, nor contradicted the opinion of his chiefs. He said

that Oyarvide did not accept the currents of the west, nor the eastern ones, because they were not those of the Treaty, and he might have added, without damaging the cause of Spain, that the dividing line was more a *meridian* than a *paralel in that part*.

Certainly the river San Antonio Guazú originates and flows right up to the Iguazú in the same direction as the *meridian*, and as Oyarvide had to follow it, he parted from that *local* direction following the *western* currents of the Chopin that runs obliquely to the meridian and the eastern sources of the Peixes that runs also into a cross line of the bow formed by the maximum circle.

It is thus shown that Cabrer has not pretended that *the whole line* of demarcation is a *meridian*, this being *only in that part* where through *local* causes the river serving as frontier runs from South to North.

The originary division of the domains of Spain and Portugal was an arc of maximum land circle and was for that reason called *Meridian of Demarcation*. Usage left this name as adopted for the boundary of both States, although it afterwards ceased to be an arc and became a *broken line*, which was also definitive. Baron Capanema has been unable to show

that the limits of Brazils with the Spanish American Republics from the Plate to the Orinoco are a *meridian*. He must have forgotten then that all his readers could rectify his statement by merely following the line in any map.

Should it be that in a figurative sense the name of *Meridian of Demarcation* is given to that *broken line*, then, whoever says it, falls into a geographical error. Science demands the greatest precision in the use of its terms.

Moreover, this disertation is devoid of any interest, and it uselessly appears as increasing the list of grievances, as neither in 1750, nor in 1777 have the Treaties, indeed, stated that the line ran either by a *meridian* or a *paralel*. They marked out places, rivers, and peaks, as landmarks in the great broken line of the limits in South America between Spain and Portugal. This precision in international documents excludes the possibility of sophisms.

XX.

It is unnecessary to follow Baron Capanema in the comentary he again makes on the labors of the Commissioners in 1759, 1784 and 1885. All that has been so many times gone into by Argentine

and Brazilian writers, that it is impossible to find any new reasons; and all of them, whether old or new, would be mere informative precedents, but in no case arguments likely to settle the difficulties, for the reasons I have referred to in regard to the radical differences between them.

Let us then give up that entanglement, as on both sides the debate has reached its utmost limits, and it will be extracted and laid before the arbitrator by Ministers Calvo and Paranhos, two strong intellects well worthy of each other.

I will give some attention, though, to the geographical arguments adduced by Baron Capanema. He pretends to discover the *legal truth*, the mind and intention of both monarchs, from private precedents which they had nothing to do with, destitute of all scientific importance in regard to the case in question, and which by their very nature are valueless, as proofs against the rights of Spain.

I refer to the extraordinary value he attaches to the maps of the Jesuits. A river Pepiry or Pequiry is marked therein in the position suitable to Brazilian interests, and he draws the conclusion therefrom that the line must run along that river. No logic can be found in this argument, because if the Map of the Courts,

previous to the Treaty of 1750 marked the line more eastward, on our Pepiry Guazú, it is evident that the will of the Kings of Spain and Portugal was to repudiate, peremptorily and expressly, every previous map showing anything to the contrary.

The very order given to the Commissioners by the Additional Treaty aforesaid, of carrying the line where *the intention and mind* of Their Majesties caused it to be marked on the map, even though the names of places should not be those commonly used by the Indian nations, shows that they were to ignore any water course not agreeing with *the line of carmin*.

But if the maps previous to *the official one of 1750*, do not give the *legal proof* sought by Baron de Capanema, it will be agreeable for me to state that neither do they carry any weight as demonstrations, or even simple arguments.

In these all-important questions, statesmen cannot afford to be left behind without running the risk of discovering a vulnerable heel, as is the case with the Imperial Geographer of Rio de Janeiro.

There is, then, the well directed arrow.

XXI

During the first three Centuries after the discovery, conquest and colonization of

Spanish America, its geography was confused and sometimes even totally unknown, beyond the coasts and inland settlements of the Spaniards. Of the inland deserts nothing was known except fables, such as that of *Eldorado* in the North and of the *Cæsars* in the South.

Walkenaer had it that. « All that the learned could obtain during two centuries concerning that immense Continent of Southern America and Mexico, was a small number of narratives, incoherent and very little satisfactory, and a few charts hurriedly drawn up and doubtlessly full of errors. If the Spanish and Portuguese governments ordered geographical researches to be made for their own information, they were as closely concealed as if their knowledge had been likely to compromise the interests of the State ».

At the beginning of last century, American geography received a vigorous impulse through the action of celebrated French geographers, to whom Kings and Corporations applied, not only in France itself but also from foreign countries, for anything relating to cartography.

It was logical then that the Jesuits, so clever and deep always in the election of their agents and their means, should entrust them with the construction of the first Chart of their southern province in South America.

The *first* map of the Jesuits was published, in fact, about the middle of the XVIIth century, dedicated to the seventh General of the Order, Father Vicente Carrassa, who governed it from 1645 to 1649. The *second*, that I know of, came to light in 1689, entitled: *le Paraguay, tiré des relations les plus récentes*, by G. SANSON, *Géographe ordinaire du Roi, avec privilège du Roi pour 20 ans, 1668*. Guillaume de L'Isle, geographer to the King and of the Académie des Sciences of Paris, published *the third map of the Jesuits* in 1703. I possess two copies of the original edition, and from them has been taken the copy which Minister Calvo took to Washington. The particulars for drawing up this map were supplied by two of the most remarkable figures of the Jesuitical legion in South America; Fathers Don Alonso de Ovalle, scholar and writer, born in Santiago de Chile, and Don Nicolás Techo (*du Toist*), born in Lille in 1611 geographer and historian like the former, « Provincial » of the Order. The title of this map reads as follows:

« *Carte du Paraguay, du Chili et du Détroit de Magellan, etc., dressée sur les Descriptions des P. P. ALFONSO DE OVALLE et NICOLÁS TECHO, et sur les relations et mémoires de Browner, Narborough, Mr. de Beauchesne, etc. par GUILLAUME DE*

L'ISLE, *premier Géographe du Roy, de l'Académie Royale des Sciences, A Paris chez l'Auteur, sur le Quai de l'Horloge, avec Privilège du Roi pour 20 ans 1703. Gravée par Liebaux fils.*»

The documents of the Jesuits consulted for this Chart, therefore, are; the former one dedicated to Father Caraffa in the previous century; that of Samson of 1668; and the following works.

«*Histórica Relacion del Reyno de Chile, y de las Misiones, y ministerios que exercita la Compañía de Jesus, A nuestro Señor Jesucristo Dios Hombre y á la Santísima Virgen y Madre María, Señora del Cielo y de la Tierra y los Santos Joseph, Joachin Ana, sus Padres, y Agüelos.*—ALONSO DE OVALLE *de la Compañía de Jesus, Natural de Santiago de Chile y su Procurador a Roma. En ROMA por Francisco Cavallo. M. D. C. XLVI. Con licencia de los Superiores.*»

This precious work was again edited in Rome, with even date, translated into the Italian language and under the following title:

«*Historica Relatione del Regno de Cile, e delle missioni e ministerie che esercita in quelle la Compagnia di Jiesus. A nostro Signor Giesu-Christo, Dio Homino, e alla Santissima Vergine é Madre Maria, Signora del Cielo, e della Terra, é alli Santi*

Gioseffo, Gioachino, Anna Suoi Parente é Avi—ALONSO D'OVAGLIE *Della Compagnia de Giesu Nativo di S. Giacomo de Cile é suo Procuratore a Roma*—*In Roma Appresso Francesco Cavallo.*—M. D. C. XLVI. *Con licenza dei Superiori.* »

As regards the book of the other remarkable Jesuit, also a source of information for the map, it was the following:

«NICOLAI DEL TECHO, *societatis Jesu, Historia Provinciae Paraguariae; Soc. Jesu Leodii 1673 in folio.*

An English translation of this book was published by Churchill in his collection of voyages, London 1704.

Such is the *third* chart of the Jesuits known hitherto, following in chronological order; but it is *the first* in importance and authority, as in it are compiled and methodically arranged the previous ones with characteristics and scientific value not to be found in them. It is, for those reasons, the expression of the latest embryo knowledge at that time existing about America and its proximities, as it was formed with the cooperation of the Jesuits and the European Geographers of greatest renown of their time. The territory in dispute is scarcely to be perceived on this map; but *two rivers* are already sketched out, the two *Pequirí* or *Pepiri Guazu*, the Argentine and the Brazilian ones, as a

reminiscence, as a record of facts scientifically known in a vague manner, but not completely grasped in all their details. Doubtlessly for that very same reason, those rivers, have been marked without any name.

The boundary question had not yet sprung up to draw the attention of the Courts to this territory. It was uninhabited by Christians, and only empirically known by Fathers, and officially by travellers who took their geographical notes for themselves and did not inspire any faith to the geographers. That map, besides being scientific and authentic, is also sincere and irrefutable in that part, although it wrongly included Patagonia as part of Chili, as a prolongation of Cuyo, a pretention repudiated—as is well known—by the King, in the Cédula of 1776 severing from that trans Andine Governorship the regions East of the highest peaks of the Andine chain.

Such are *the two rivers*, the existence of which Baron de Capanema denies on the authority of subsequent maps.

A history of the Missions of the period was—shortly afterwards—being published in Paris under the title of:

«Lettres Edifiantes et Curieuses. Ecrites
«des Missions Etrangères, par quelques
«missionnaires de la Compagnie de Jésus»

and their authors solicited from the celebrated geographer above named D'Anville, in 1721, the drawing and engraving of a chart to add it to the work. D'Anville followed therein that of De l'Isle of 1703. At that time the Charts, or rather the empirical maps without any scientific form, made by the Jesuit fathers on the River Plate and Paraguay, were very numerous, and disappeared in the hands of geographers to whom they were offered as precedents. Among those saved from loss or destruction besides the printed ones I have quoted, the next place, chronologically, belongs to one constructed in 1726 by some Jesuit fathers—whose names have not been retained by tradition—and presented by them to the Rev. Father General Miguel Angel Tamburini. This Chart, mentioned by Baron Capanema as the *only one* or *first one* of the Jesuits, (thus leaving his knowledge on this matter far bellow his reputation), though it is the *fourth* chronologically speaking; as I have shown, modifies De L'Isle's in the part of Misiones, because it shows more westward the two rivers appearing therein, to which I have already referred, and introduces the names of *Uruguay Pitá* and *Pepiry* in a position that is not theirs, according to the publication of 1703 nor its concordant the *Map of the Courts* of 1750. While the Chart of 1703

bears the authority of the illustrious names of *Jesuits and geographers of the period*, and the Coat of Arms of the Company of Jesus in water-mark, that of 1726 is anonymous, *of the Jesuits*, without stating whether they were Portuguese or Spanish, nor its origins, nor the reason for the modifications introduced in the rivers of Misiones, which had not even been the subject of any fresh explorations between the dates of the two documents.

Father B. du Halde published in Paris in 1734 vol. XXI of the «*Collection de Lettres Edifiantes*» and had requested Sieur D'Anville to engrave another map of Paraguay. This forms part of that volume in pages 278 and 279. In page 429 D'Anville states what originals he has applied to for his new stone entitled: «*Le Paraguay où les R.R. P.P. de la Compagnie de Jésus ont répandu leurs Missions. Par le Sr. D'Anville, Géographe Ordre du Roi—Octobre 1733.*» In the said page of the aforesaid volume XXI D'Anville publishes the «*Observaciones Geográficas sobre la carta del Paraguay*» and states that he has made use of the *anonymous one of the Missionary Fathers* of 1726, renewed with changes in many places in 1732 by the Reverend Father General Francisco de Retz. This map—which I know also, and have now

before me in *fac-simile*, published by Moussy—is nothing but a copy of the other one of 1726, and is equally *anonymous*, because the General of the Order, Father Retz, who had not made any surveys personally, only takes upon himself to give names to the information gathered by his subordinate. Its very title proves it: « *Paraquariae provinciae Soc Jesus cum adjacentibus novissima descriptio, post iterata's peregrinationes, etc. plures observationes Patrum Missionariarum ejusdem Soc tum hujus Provinciae cum, etc Peruanæ acuratissimæ delineata etc enmendata. Ann 1732.* »

These succeeding Charts of the Generals of the Order of Jesuits had for sole object to show the numerous changes in the different sites of the Missions, so numerous, that it was necessary, for their proper administration, to draw up a new map every year.

But is it certain that politics had nothing to do with these works, which had no scientific character and were purely administrative, drawn up in Rome?

The anonymous Chart of 1726, compiled under the name of the Father General of 1732, and D'Anville's one of the following year based on the former ones, alter the older ones of scholars and celebrated Jesuits respecting the rivers in Misiones.

Indeed, in that of 1703 three tributaries of the Uruguay appear in the region under dispute. The first one he calls *Acaraguá* and its sources are to be found to the N. E. on the eastern side from the fall of Iguazú.

Two other rivers, parallel to the former, correspond more or less to those of the Map of the Courts of 1750, that is to say, the two *Pepiry* in question.

Retz and D'Anville in 1732 and 1733, when the boundary question between Spain and Portugal was already started, leave out the River *Acaraguá*, and mark west of the Fall of Iguazú the two other rivers of 1703, Retz calling them *Guorumbaca* and *Pepery*. — He copies, therefore the anonymous chart of 1726.

D'Anville introduces a fresh element: he calls the latter *Pepiry* or *Pequiry*. What credit can be attached to these changes? What explorations, informations or authority are they based upon? D'Anville says on the aforesaid occasion, and in commenting on the map of Retz, and his own, referring to the Chart of 1703 and his other sources of information, the following, which is an explicit answer to my queries:

« This first Chart (Caraffa's), which must give way as far as merit goes to more recent Charts, *in respect to the situation of inhabited places, subject to modifi-*

cations, seems to maintain however OVER THOSE CHARTS THE SUPERIORITY in what concerns the greater abundance and *precision of details*, excepting the *environs* of the City of Asuncion ».

After thus recognizing the singular merit of the Chart of 1703 and of those on which it was based, over the later ones of 1726 to 1732, d'Anville informs us of the information he made use of to rectify the drawing of the former in the disputed region of Misiones. It is a pleasant surprise for the Argentine reader which I prefer to quote in French:

« *Les Portugais* ont réellement occupé un « *vaste pays à l'Ouest*, (adjoining the Misiones « under litigation) au Sud de Piratininga, ou « Saint-Paul, etc. C'EST AUSSI CHEZ EUX QUE « JE L'AI TROUVÉ DÉCRIT. Ceux à qui le détail des autres cartes (that of 1703 and « previous ones) est connu ou qui le compareront avec celle dont il s'agit (d'Anville's of 1733) s'apercevront qu'elle « donne un pays rempli de circonstances « géographiques aux environs de Saint-Paul (near which the Misiones are situated) « qu'on ne voit pas ailleurs et que J'AI TIRÉ « DES PORTUGAIS. » ⁽¹⁾

⁽¹⁾ *The Portuguese* have really occupied a vast Country in the West, South of Piratininga or St. Paul &c. So, IT IS AMONG THEM THAT I HAVE FOUND ITS DESCRIPTION. Those to whom the details of the other Charts are known or compare them with the one in question, will find that it shows a Country full of geographical circumstances in the environs of St. Paul which are not to be seen elsewhere and which I HAVE DRAWN FROM THE PORTUGUESE.

This is the key to the arbitrary transformations on the Jesuitical Charts respecting the rivers in Misiones.

Baron Capanema had not told us all that was necessary about the maps which he opposes so emphatically to Argentine written titles: he should have added that those maps, in that part, were made by the Portuguese. He has consequently wasted his time with such quotations and has been irreparably defeated in this geographical skirmish.

To crown the victory of the Report of the Argentine Foreign Office, I will refer to another omission on the part of the Imperial Geographer of Brazil. D'Anville, of universal celebrity, and a Frenchman, had to take care of his reputation, and do honor to scientific neutrality in the controversy on boundaries between Spain and Portugal. He was undoubtedly warned, when he had just published his maps for the «*Edifying Letters*,» that he had involuntarily favored the interests of the latter nation to the detriment of those of the former, and he hastened to correct the error in his American work edited by his own spontaneous initiative, a work of wide scope and scientific celebrity. It is the Chart entitled:

«*Amérique Méridionale publiée sous les
auspices de Monseigneur le Duc d'Or-*

« léans. Premier Prince du sang. Par
le sieur d'Anville 1748. Avec privilège. »

This Chart was re-printed, according to Walkenaer, in 1765 and 1779. I have on my desk, a copy of the first edition, richly and artistically traced on japanese paper, like de l'Isle's of 1703. I am indebted for the gift of this precious document to Lieutenant General Bartolomé Mitre.

D'Anville corrects in the American Chart the *Portuguese data* of his Map of Paraguay of 1733, and marks with yellow and green inks the boundaries between the Spanish and Portuguese possessions, leaving all the disputed territory within the former, as they were also considered by international law at the time. He marks out the rivers *Guarumbaca* and *Pepiry* or *Pequiry*, as he called it in 1733, with the same names, leaving out the words «ou Pequiry» and gives them the situation of the Chart of 1703— in such a way, that the sources of both of them seem to be those of both Pepiris, (eastern and western) appearing on the mixed plans of the surveys— and I can affirm that the eastern river of that map called the Pepiry, is the one that forms the limit.

D'Anville did not rectify the situation of the Uruguay Pitá, which in all the maps of that period is but vaguely marked.

The new position of the rivers given by D'Anville, is not now either the Portuguese one of 1733, nor that contended for by the Spaniards. It is that of Nature, for it is the same given by Argentines and Brazilians in their mixed map, with those natural differences between empirical information of travellers, as were those of 1784, and those obtained in 1885 through scientific proceedings approximately exact.

XXII

Baron Capanema has dreamt, though, that the map of 1726, persistently mentioned in his exposition, had decisive proofs, and intends to strengthen them by means of Charlevoix's Chart of 1756.

Of both documents he includes double engravings in his work by way of illustration. It is a curious persistence of erecting false foundations, so weak as not to resist the slightest shock. Let us then destroy that argument, which takes up a goodly part of the writing to which I am now replying.

The Baron says:

*« Now, Father Charlevoix being a Jesuit,
(the author of the History of Paraguay of
1757 consequently three years before the
Boundary Commission followed on to*

Pepiry)— and the book comprising a map drawn up by an engineer of the French Navy on information supplied by the Jesuits —was not this information given by the Cosmographer Father Quiroga?»

The meaning of this query may be appreciated when it is considered that Father Quiroga was a Spaniard.

Well, no sir! Charlevoix himself says who supplied the information to Bellin, of the French Navy, to construct that map, and by omitting the fact Baron Capanema shows that he does not read the books the maps of which he quotes with seeming conviction, or that---if he does read them---he forgets what is unfavorable to him with extraordinary facility.

Charlevoix's work is called:

«*Histoire du Paraguay par le P. Pierre Xavier Charlevoix, de la Compagnie de Jésus, A Paris, 1757.*

Vol III has, as an under cover, the «*Carte du Paraguay et des pays voisins sur les Mémoires des Espagnols et des Portugais et en particulier ceux des R.R. P.P. de la Compagnie de Jésus, par M. Bellin Ingénieur de la Marine, 1756.*»

In this map the names of the rivers Guarumbaca and Pepiry of the Charts of 1703, and the general one of d'Anville, disappear, but although three rivers are to be seen in it, one of them approximately

where our Pepiry Guazu ought to be, he omits their names and calls the Guarumbaca Rio Pequin, that being the most westerly of the first charts.

It would not be contended that the Pequin is the Pepiry Mini, or the one claimed by Brazil, had not Bellin marked along its borders, and with a line of dots, the boundaries between Spain and Portugal.

And; singular thing!

His tracing, which ought to begin in the Plate and continue as far as the Orinoco does not extend—either northward or southward—beyond the rivers Paraná and Uruguay. That meant, therefore, that in that region Portugal had a right as far as the Pequin, the old Guarumbaca, and nothing else.

And who was it that offered this solution, establishing the precedent?

There are two editions of the history of Charlevoix, one in 12^o, the other in 4^o, both from Paris, of the same year and by the same printer. In the former is omitted the *Introduction* which appears in the original edition in 4^o.

This Introduction is of capital importance and says: « Avertissement sur les « cartes géographiques que M. Bellin a « dressées pour l'Histoire du Paraguay (1) ».

(1) Advertisement on the geographical Charts drawn up by Mr. Bellin for the History of Paraguay.

How could Baron Capanema overlook or forget a reading so edifying and necessary, to quote successfully the said Charts which he considers conclusive?

Here is what Mr. Bellin states with reference to the origin of the limits he drew by mistake between the Paraná and Uruguay:

« Lorsque je me suis chargé de dresser les Cartes géographiques qu'on ne peut se dispenser de joindre à cette histoire, *je comptais sur des secours qui m'ont totalement manqué, quoique je n'aie rien négligé pour me les procurer.* Il est vrai que j'espère pouvoir les rassembler, mais la lenteur de mes correspondances *avec l'Espagne d'où je les attends*, peut encore me jeter loin, et je retarderais trop l'édition de cet ouvrage, que l'on désire depuis longtemps, *si j'attendais que les Mémoires et les Cartes dont il s'agit me fussent parvenus.* Ainsi je suis forcé de me renfermer dans des bornes très étroites pour la géographie de cette *Partie Intérieure* de l'Amérique Méridionale, si peu connue jusqu'à présent » (1).

(1) « When I undertook to draw up the geographical Charts which it is indispensable to annex to this History, *I reckoned on assistance which has totally failed me, though I have spared no effort to obtain it.* It is true that I hope to be able to get it, but the slowness of my correspondence *with Spain where I expect it from*, may still carry me far, and I should delay too much the publication of this work, which has been longed for, *were I to wait until the Report and the Charts referred to had reached me.* I am consequently obliged to act within a very narrow scope in reference to that *Interior Part* of Southern America so little known hitherto ».

Bellin only had, therefore, Portuguese information, through his not having received any from Spain.

Respecting the insinuation made by Baron Capanema as to father Quiroga having supplied the particulars of that map, its author, in the above mentioned introduction denies it, and states :

« Outre les cartes que je viens de citer (Retz's 1732 and d'Anville's 1733 already examined) il y en a une nouvelle que le P. Quiroga, Jésuite espagnol, habile mathématicien, a dressé sur les observations qu'il a faites dans ces provinces. Je sais encore que le R. P. Panguy, savant astronome, actuellement à Venise, a fait au Paraguay et dans la Rivière de la Plata, des observations au moyen desquelles on a déterminé les latitudes et les longitudes de plusieurs endroits; *mais n'ayant pu encore rassembler tous ces matériaux*, etc. (1)

Baron Capanema has exhausted then, all his strength in the geographical question, showing, as proved heretofore, that he is unacquainted with a good part of it. I might have avoided the answer as being useless, for, as aforesaid, no advantage

(1) « Besides the Charts I have just quoted, there is a new one which father Quiroga, Spanish Jesuit, a clever mathematician has drawn up on the observations he has made on those Provinces; I know besides that the Reverend father Panguy, learned Astronomer now in Venice, has made observations in Paraguay and in the River Plate, by means of which the latitudes and longitudes of several places have been fixed; *but not having been able as yet to obtain all those materials*, &c. &c. »

can be drawn from any discussions of contradictory geographical facts, or plans drawn up by adversaries of Spain, as against title deeds. But I have followed the Imperial Geographer by way of indulging in some literary and scientific exercise to show him that we, the Argentines, know what we are about and even what Baron Capanema is unacquainted with or willingly ignores. I might give a truce to the fallen opponent and leave him to bury his dead, but as he is harsh and ill-spoken, I will only close my books and fold up my maps, in order to give way to those of Portugal; leaving him, as it were, to the cavalry, whose mission it is to sweep the field and clear it of runaways.

That is the risk incurred by those who discuss with cruelty.

The Portuguese General Don Custodio de Saa y Faría, was sent by the King of Portugal, in the last century, to make preliminary surveys on the demarcation, to prepare the action of the Commissioners.

He subsequently formed part of the international commissions that made the demarcations of the part of the frontier between Rio Grande and Montevideo, or from Castillos to the Uruguay. General Custodio had sketched the general map of the frontier in the Plate and Paraguay, and his map was entirely in accordance

with the official Map of the Courts, previous to the Treaty of 1750, respecting Misiones. Both the Portuguese and the Spaniards held it and consulted it. In 1789, when Lieutenant of the Navy Albear and the Portuguese Colonel Roscio were discussing about the real Pepiry, the former offered to the latter, as an irrefutable proof, the official Map of Portugal, drawn up by General Custodio as one of the Commissioners from his Government and after the mistake of the Commissioners in 1759. —Colonel Roscio pretended not to know the existence of such a map, after having alleged that the Map of the Courts was lost, just as Baron Capanema has omitted now to read the Advertisement of d'Anville's and Bellin in which they state that their maps were made on informations from Portugal, because they had not received in time those from Spain. Colonel Roscio in a dispatch to Albear in November 1789 added the following:

«Your Lordship promises to let me see the plan stated to be the true one that declares the mistake of the Pepiry; I accept that favor, for I always wish to learn and to increase my poor knowledge, comparing its particulars with the explored lands which are not wanting in extension to decide *sufficiently* as to their exactness.»

Colonel Roscio placed himself on the defensive: Albear hinted it to him, and he further enlightens us on the subject through his dispatch to Col. Roscio dated 17th November 1789. as follows:

«Your Lordship accepts, as stated in his dispatch, the Copy of this map, spoken of by Mr. Alpoin, and I have had the satisfaction to show it to Your Lordship by entrusting it to the pilot of the sub division, Don Andrés de Oyarvide. I suppose Your Lordship must have noticed at once that it is a work well worthy of its author, Brigadier Don Joseph Custodio Saa y Farias, made in the year 58, when, being in the service of Portugal, he filled the post of First Commissioner of the First Boundary party, and the demarcation of which from Castillo to Santa Tecla he had traced as well as that of the Third Parties from Salto Grande del Paraná to the Jaurú.»

Colonel Roscio abandoned the field alleging that the Map of the Courts, previous to the Treaty of 1759, was incoherent, without any proportion, nor certainty; to which Cabrer, so highly praised by Baron Capanema, replies by saying that «the real Pepiry is situated west of the Uruguay Pitá, as stated, and all the incoherence found by the Portuguese Commissioner is reduced to some difference in the distances,» which was quite obvious as

nobody had ever made any measurements as yet, and maps were then traced by approximation.

XXIII

I now come to a legal digression made by Baron Capanema. Anxious as he is of finding contradictions in the Argentine Report he refutes, he expresses his ideas in the following shape.

«H. E. is not coherent, as he accepts the nullity of the Treaty of 1750 and of the work and indications contained in that Treaty, altering them at pleasure.»

I do not quite see the reason of this new charge, as the Report of Foreign Affairs refers to the articles of the Treaty of 1750 and publishes them *in extenso* without omitting a single coma. In this present reply itself, I have reproduced them.

The Baron then insinuates that the Treaty of 1750 was only apparently annulled. I have already dealt with this point and I now add that the Argentine Republic has not expressed or has any interest or need whatever to invoke the nullity of that Treaty of 1750 as a legal precedent; and the Report of Foreign Affairs, now under discussion, states, on the con-

trary, that the pact of 1778 *confirmed and explained the first Treaty*, which means that it is accepted as a legal document. When the Brazilians have appealed to the wrong exploration of 1759, the Argentine Republic has naturally replied that it was null, because the Treaty of 1761 had cancelled that of 1750 *and its consequences*, and although its meaning was renewed and its wording explained, the same was not done with respect to the operations carried out through a wrong interpretation of it on the spot.

The Treaty of 1750, the map of the Courts, which was the basis thereof, and the instructions given to the surveyors are so favorable to the Argentine claims, as I have shown, that, as far as I am concerned, I accept the Brazilian inclinations to take as valid the said document, which, on the other hand, quite agrees—as may be remembered—with the Treaty of guarantee of 1778. This does not mean the sanction of the mistake committed by the demarcators in 1759, as even in the event of its not having been declared null, and void, and as non-existent, by the covenant of 1761, still there would be another cause of irreparable nullity, viz: the very worthlessness of the act itself, affirmed by the surveyors themselves when they declare that following the informa-

tion supplied by an Indian, they disobeyed the royal wills by seeking the boundaries where the latter had expressly forbidden it, thus altering the area of their possessions, as recognized and guaranteed by the Treaty.

Sr. José Antonio de Freitas, commissioned by Brazil to seek for documentary evidence in the Archives of Lisbon, published an article on the 28th September 1892, headed:

«*The boundary question of Brazil with the Argentine Republic.*» in which he reviews the correspondence between the negotiators of the Treaty of 1777 and says:

«Well then, from that correspondence, as official, it can be concluded that at the beginning of the negotiations, during them, and until they were concluded, *the intention of the Plenipotentiaries, was constantly and chiefly to reconstitute the Treaty of 1750.*»

He quotes several documents from the Ministers Souza Coutinho and Count of Florida Blanca to prove his conclusion, and then says:

«This is briefly (says a dispatch from the former Plenipotentiary) the substance of a long conference, to which may be added that they (the Spaniards) are very much displeased with the delays, on account of the expenses to which they are obliged, as well as of the wish they have of ordering the return of their troops and ships

so as to ensure the peace they desire; that the Treaty they make is the same one of 1750, which Your Excellency showed---by the secret article sent to me---to be what was wanted.

« And what was that secret article?

« It is the following, and we beg to call special attention to it.

« His Catholic Majesty by his own royal and generous magnanimity, and in view of the cession made by Her Faithful Majesty, his niece, as per art^s 7 and 8 of the preliminary treaty of even date with this present respecting the islands of Annobon and Fernando Po with the sure entrance of Spanish vessels into the islands of Principe and Santo Tomé, with the object of introducing and facilitating Spanish commerce and navigation along the coast of Africa; it suits His Spanish Majesty, to declare for the reasons aforesaid: That the line of demarcation in Portuguese or Spanish States in America must run after Rio de Laguna Merim; and Corte de San Gonzalo, as declared in art 6th of the preliminary Treaty: and that they shall be regulated *by following the same places formerly agreed upon* (in the *Map of the Courts*, that was used to fix them) and stipulated by the Treaty of Madrid of 13th January 1750 ».

But although Baron de Capanema insinuates the subsistence of the Treaty of 1750, which Freitas decidedly maintains,

he does not dare to accept it without reserve, foreseeing the defeat of Brazil, as whatever interpretation might be given to the text of the document, it would be always subject to the *map declared as an official guide for the Treaty itself*, by the protocols I have quoted in this paper.

The Baron pretends, in fact, to parry that fatal thrust and says:

« Let us go back to the Treaties: that of 1750 is deficient; 1st in not showing the Pepiry in relation to the Salto Grande do Iguazú although it is off an elbow as it was already indicated in the Map of the Jesuits of 1726 (which means to say that the Treaty ignored that map as I did in my previous study); 2nd in not indicating that the limit, as far as circumstances allowed it, had to follow the meridian direction. »

The Baron agrees therefore, that notwithstanding his belief that the boundary was a *Meridian*, the Treaty, the supreme law, did not understand it so.

It is indeed a great pity for Brazil, that the Plenipotentiaries Carvajal and Silva Tellez did not draw up the Treaty of 1750 in accordance with the present wishes of the Imperial Geographer of Rio de Janeiro; but it also affords us reason for congratulation to have it acknowledged by him that the Treaty favors the Argentine

Republic, because it states quite the reverse of what he thinks it ought to state to support his claims.

XXIV

It is not the last, nor yet the least important admission of Baron Capanema in favor of my country's interests.

Although his refutation to the Argentine Report does not improve the geographical or legal parts of the question, it certainly does advance it from the political point of view by tacitly acknowledging wisdom and probabilities of success on the part of the Argentine Foreign Office.

I feel much inclined to forget the offence given to the Republic by Baron Capanema, in retribution of the service he renders us with the following appreciations which do not require any comment:

« The Treaty of 1777 renews that of 1750 and explains it most clearly, without leaving any point doubtful: *the duty of the surveyors was to mark out the line adopted in THE OFFICIAL MAP with rare exactness.* »

The Argentine Republic will present that Map to the Arbitrator instead of that of Olmedilla's alluded to. The most impor-

tant is that the Baron admits that the demarcators had to be guided by the OFFICIAL MAP. Mr. Calvo must be thankful for this declaration emanating from the President of the Boundary Commission of Brazil.

« Councillor Paranhos was not right when insisting on the Pepiry of 1759, as the other one of 1788 was — as we have seen — *fraudulently* invented by the Spaniards, and never was approved by the Courts. »

(Mr. Paranhos acknowledged, just as all the subsequent Brazilian Governments did down to the compromise of Zeballos-Bocayuva, that there were two *Pepirís* or *Pequirís*, thus condemning Capanema who denies it).

« The lengthy Report of Dr. Zeballos quotes all the discussion carried on for many years, which does not advance us much: it only reveals two things: 1st proposal of a *Compromise* (repeatedly initiated by Brazil) which amounts to a confession *that they did not feel certain of the right for which they contended.* »

(In the second point *or thing*, he refers to the military occupation of Misiones on the limits of the Treaty of 1777 ordered by the Argentine Congress and carried out by Dr. Irigoyen).

« We are indicted with *having* established Colonies in the Campo Erê, *within the territory in litigation, but the Government had not the slightest intervention therein.* »

It is exactly the same thing alleged by the Report of Foreign Affairs, now under discussion, in pages 45, 46, 50 and 51, against Brazilians who have argued energetically, invoking *possession*, which the Baron declares not to exist, as other Imperial diplomatists have done.

« I have to mention besides, that Dr. Zeballos in page 93 and following ones of his Report, copies the article published on the 19th July 1891 in the *Jornal do Commercio* by Sr. Dionysio Cerqueira, a very ambiguous article, showing want of studies, tending to foment through the exploration of *Jangada* the rights of the Argentines, strengthening them even by representing the *Uruguay* as an affluent of the Paraná and giving it as a confluent (*contravertiente*) of the Santo Antonio, for which reason the latter could not be taken into consideration and deserved to be ignored. Before thus denying the proofs of our rights Sr. Dionysio ought to have read attentively the Treaty of 1777, which does not mention any confluent, nor has any disposition tending to the search of sources eastward of the origin of the Pepiry Guazú.

« And it is a Brazilian officer, boundary Commissioner, who in an article in the

press, erroneously doubts of the rights of his Country!

« The present exposition was already almost finished to be presented to the Arbitrator—more complete still—but I having, on the 31st March last, been discharged from the Commission, with the usual praise—I had put it aside, but I brought it out again as I was seized with a fit of patriotism on reading Dr. Zeballos' Report, which for the most part exhibits our two Countries as in a permanent contest, like two gladiators rolling on the ground, impotent to overpower one another.

« Patriotism and indignation, on seeing that the errors in Sr. Dionysio's articles were used as weapons against us.

.....
« I did my duty as a citizen, more patriotic than those who exerted themselves in trying to get appointed on the Washington Commission ».

I will not meddle in this domestic quarrel. I only refer to it as a symptom of our victory before the Arbitrator.

XXV

I have only left out of my analysis one single important point in Baron de Capanema's exposition: the one in which he insolently insults and calumniates the Argentine Government, as that is the only

meaning that can be ascribed to the following words applied to the solemn Annual Report which, in accordance with the Constitution, the Executive Power addresses to the Honorable Congress of the Nation, viz:

« I wish Dr. Zeballos would deign to explain to me for what reason he consented to the disfigurement of our work; by what right did he change in the Map annexed to *his Report* the name of *Pepiri-Mini* to that of *Pepiri-Guassú* which has been long known as such by the people? And what is the reason why he omitted from that map the origin of the course of the true *Pepiri-Mini*, which is a different branch of the *Pepiri-Guassú*, that could not be omitted, and which the Commission admitted? *It was an abuse of His Excellency's and a very serious one: I protest most solemnly* against the declaration contained in that Map that it was drawn up by the Joint Commission, as it renders THE MAP A FORGERY.

.....
.....
« In bad faith were the Spaniards when they gave, the Chapecó the name of *Pepiry Guassú*, as at that time Olmedilla already mentioned it as *Guatupy*.

And now an Argentine Minister of State presents it to Congress and to the Nation, not only with changed names, but even with suppressions CONSTITUTING FORGERY.

I will answer in turn the questions and the accusations of Baron de Capanema, with the remark that I have to make a very strong effort on myself to stifle the utterance which he well deserves for his temerity.

« By what right did he change in the Map annexed to his Report the name of *Pepirí Mini* to that of *Pepiry Guassú*, which has been long known as such by the people. »

The Argentine people never called *Pepirí Guazú* that *western* river, claimed by the Brazilians, but *Pepirí Mini*.

Since when is it called *Pepirí Mini*?

The Report states it.

The Baron has not read it.

Why does he accuse it without thinking it over? In page 6 it says: «The rivers have been given the names proposed by Albear, so as to avoid confusions.» The «Order for the survey of the *Pepirí Mini* or the river of the old demarcators,» dated on the borders of the Uruguay the 17th November 1789 and given to Cabrer by Commissioner Don Diego de Albear, says, on referring to that river, «and which, to prevent new mistakes, we may call *Pepirí Mini*.»

Baron Capanema praises in the following words the Official Journal of Cabrer, which he frequently quotes:

« His works revealed good judgment, wisdom, and full sense of his dignity; when he carried out orders the loyalty of which he found somewhat doubtful, he cleverly caused it to be felt so as to discharge himself from any responsibility thereon. »

If Baron de Capanema has carefully studied Cabrer's work, how can he have overlooked that part of vol. II Chap. I where he states as follows:

« WE CALL this river PEPIRÍ MINÍ (the very same one referred to as a forgery by Baron de Capanema) the surveys of which we are going to examine, and which the old demarcators mistook for the Pepiry Guazú, as has been shown by the foregoing documents. »

Azara, the most remarkable of the Spanish demarcators, only calls the river claimed by Brazil by the name of *Pepiry Miní*, and his works are also official.

In his famous map, entitled *Carte Générale du Paraguay et de la Province de Buenos Aires*, he marks out the Spanish-Portuguese boundaries with the *carmin line* of the Map of the Courts, following the rivers called *Chapecó* and *Jangada* by modern Brazilians, to which he gives the names of PEPIRY GUAZÚ OF THE TREATY and SAN ANTONIO GUAZÚ. The opposite rivers, those belonging to the *western*

system defended by Baron de Capanema, have on that document the names of PEPIRY MINÍ and SAN ANTONIO MINÍ. As far back as the last century, it was thus admitted in diplomatic negotiations, as a geographical fact, the existence of the two *Pepiry* or *Pequiry*; one of them *Miní*, of the Brazilians, and the other Guazú of the Argentines; and it was so admitted by the eminent Paranhos in 1857, now censured as before stated by Baron de Capanema. Requena, already mentioned, in his Map and general report on the boundaries of the two domains in South America, gives them the same names.

The Spanish American States, received with their inheritance the lawsuit between Spain and Portugal, and the documents belonging to the metropoli form their written, undisputable titles respecting the limits. Had Argentine Governments and writers altered those written titles, calling the Pepiry Miní by any other name, that of Pepiry Guazú for example, they would have impaired their country's rights to the advantage of their opponent.

This absurdity is, however, demanded by Baron de Capanema when he angrily accuses the Argentine Government of *want of loyalty*, and of *committing forgery*, because their Report gives that river the only name that tradition and their legal

title deeds ascribe to it. But at the same time that the Argentine Nation is decided fully to maintain her rights, it is not in her views to carry on a mean policy by hiding the arguments of her opponent; and it is stated in the Report so frequently that it is hardly necessary to quote the pages, that *Rio Pepiry Mini* is the same one called *Pepiry Guazú* by the Brazilians. It might be thought then that Baron Capanema has not carefully—nor yet completely read the Report, as he is unacquainted with, and misses, just what it explains in a spontaneous, frank, and loyal manner.

« *And what is the reason* why—continues the late Imperial official—he *omitted* from that Map the origin of the course of the *Pepiri Mini*, which is a different branch of the *Pepiri Guazú* (of the Brazilians, *Mini*, for the Argentines), that could not be omitted, and which the Commission admitted »?

There is no such omission.

The Map annexed to the Report only contains the necessary information to enlighten the reader as to the Argentine criterion on the litigation, and that affluent or branch was unnecessary because it is not under discussion, not being any one of the four rivers in question. The *Pepiry Mini* of the Argentines or western river, does receive

indeed the waters of a small stream. Neither Albear, nor Cabrer, nor Azara, nor yet the Portuguese surveyors, ever took it into consideration. The maps I have quoted, now incorporated into Spanish American International Law in this respect (D'Anville, of the Courts, Azara, Cabrer, Albear, Requena &c) do not give it any name or importance.

That is why it is not to be found in the Report of Foreign Affairs.

Some Brazilian diplomatists have tried to make a confusion between the *Pepiry Miní* of the Argentines, and its affluent to which they give the same name, calling the main one *Pepirí Guazú*, but neither the reader, nor the arbitrator, will fall into this error in view of the official texts I have quoted, and which explain in an unquestionable manner to what rivers must be applied the adjective *Miní*.

The International Commission had to admit the name of the affluent even if it was the same as that of the main, because their map contains *both views; it was mixed*: and it might even be properly called a *double map* because the names given to the four rivers are double for that reason.

But when the Argentine Nation sets forth her rights, she must do so without any *mixture*, plainly, and she can, and, what is

more, she must, omit the errors maintained by her opponent, without recording them, unless it is to destroy them. Finally, I affirm that Brazil does not gain, nor the Argentine Republic lose, anything by a river *Pepiry Miní* being drawn in the shape of a hair—pin with the name written on both *branches* of it. The matter did not deserve any attention and still less the discredit of the Geographer of the Empire, produced by the tone of his production.

Baron Capanema draws from the facts I have rectified a very serious conclusion, for it emanates from a late official of Brazil and produces something extraordinary in International Law.

He addresses, in fact, the Government and a State Minister of the Argentine Nation and says with rash boldness:

«It was an abuse of H. E.'s, and a very serious one: *I protest most solemnly against the declaration contained in that map that it was drawn up by the Joint Commission, as it renders the map* A FORGERY ».

The map does not contain such *declaration of its having been drawn up by the Joint Commission*.

It states something else. Its title declares, indeed, that it was constructed by the « *Office of International boundaries*

NOU

of the *Foreign Office*». It is then a *different* map to that constructed by the Joint Commission. The main points on which the two Commissions had agreed, that is to say, the general situation of the rivers Uruguay, Paraná, Yguazú, Pepirí Miní, San Antonio Miní (called *Guazú* by the Brazilians), *San Antonio Guazú y Pepirí Guazú* (called *Jangada* and *Chapécó* by Brazil) and the division of the waters in the basin of the Uruguay and the Iguazú, have been taken from the International Map, signed by the Commissioners of both countries, so that the Map of the Foreign Office follows as to the main points that of the Joint Commission, and it is so stated on it, when referring to the sources of information.

All maps are made in that way, based upon the previous ones that are considered to possess most authority, without introducing fresh information, and that is not a reason to call them *forgeries* of the former.

The differences between the map of the Report and that from the Joint Commission are obvious. The former bears the signature of the Foreign Office; the latter, the signatures of the Commissioners of both nations. The former reduces the details to what is considered pertinent in accordance with Argentine rights, because it is a plea in defence thereof; the latter

states the pretensions of both countries, because it is a *joint* work, in which neither of the parties could subscribe to the other party's claims alone, without recognizing them, thus abandoning their own judgment; the former adopts for each river the name given to them by Spanish American International Law; the latter gives two names to each river, the name given by the Argentines and the one given by the Brazilians; the former contains the lines of the compromise of councillor Diana and of the Treaty Zeballos-Bocayuva, the latter does not use those data; the former refers to the Meridians of Greenwich and Paris, the latter does not; the former has in a red line the meridian $54^{\circ}20'$ of Paris, the latter has not; finally, the Map of the Report has the Argentine Arms, which make it a National Map, while the other has no arms, being international. So that they are by their title, signature and contents, *two different maps*, although the one of the Report has followed in the main points that of the Joint Commission. To omit, in an *Argentine* plea the *Brazilian* claim, to call *Miní* the rivers that Brazil calls *Guazú* is not *forgery*; it is doing honor to and defending inherited and patriotic rights.

Falsification, according to Roman Law is *veritatis immutatio dolo malo in alterius*

prejudicio facta.—For a *forgery* to exist, then, it would be necessary that the Map of the Joint Commission should have been maliciously altered. Has the Argentine Minister kept back from the readers of his Report that Brazil gives another name to the rivers of its Map? Has he ever tried to make people believe that the Argentine names are also accepted by the Brazilians?

Such a thing has not been! In page 6 of the Report attacked, may be found a notice stating that although *in general*, the plans signed by the Argentine and Brazilian Commissioners have been followed, there are modifications. The boundary is marked in it, as per aforesaid notice, in accordance with the Chart of the Courts.—«The rivers,» says the notice «have the names given by Brigadier Albear, *to prevent confusions*.» This is stating loyally that the Map of the Joint Commission has been modified, which amounts to warning the reader that the new Chart of the Foreign Office departs therefrom. There is wanting, therefore, *malice*, the fraudulent alteration, or other characteristics of the act of *forgery*. The fact itself is also wanting. For the Map of the *Joint Commission* to have been falsified, it would have been necessary that the Foreign Office should have reproduced it

with all the *appearance* of the genuine one, with its title, signatures, color, details, &c., altering, suppressing or adding some others furtively.

The Baron adds:

«The subsistence of those names on the map did not prevent Dr. Zeballos from including in it also those of *Pepiry Guazú*, *San Antonio Guazú*, by which he means the *Chapecó* and *Jangada*, the latter being the only names ever known by the residents.»

Baron Capanema thus sets forth the bold pretension of dictating his own plan to the Argentine Government. The latter having intended to avoid that the double names should produce the natural confusion daily occurring among people not having a special knowledge of the subject, they naturally had to draw up the map intended to support their claim after their own judgment and not after the wishes of their opponents. Nevertheless, doing honor to the loyal and high character of a solemn international debate, the Argentine Minister states it in his Report,—the text of which refers to that map—not once, but many times, what are the names given by Brazil to the same rivers, which is what Baron de Capanema demands in the paragraph just quoted.

I again repeat that he cannot have read the Report and that his responsibility for

the bold attitude he has assumed is still greater.

In fact, the following may be found in page 20—«Or the *Pepirí Guazú* and *San Antonio Guazú* of Oyarvide's arbitrarily called *Chapecó* and *Jangada* by modern Brazilian explorers»—In page 67 it says: «The *San Antonio Guazú* of Oyarvide's now *Jangada* of the Brazilians.» In page 81 it is added with reference to the Chopin (Brazilian name): «On its being adopted by Baron de Alençar as confluent (*contravertiente*) of the *Pepiry Guazú* (*Chapecó* in the modern Brazilian Charts)» and in the same page again «The River *San Antonio Guazú* of Oyarvide's (*Jangada* of Brazil's) and so on.

There is not, consequently, any omission of the names given by Brazil, but, on the contrary, a loyal and frequent mention of them. Maps are only judged on their own text when they are *independent*, and then their foot note is full of references to guide the reader. But when a Map forms an essential part of a book, and it is sought to understand it, to complete it, and to make its reading easy and intelligible, then, the most eminent of masters, common sense, demands that the book should be referred to, in order to understand the contents of the Chart. Through having forgotten this rule, Baron

de Capanema has caused such harm to Brazil when quoting the primitive maps of Bellin, D'Anville and Charlevoix, by not knowing or having forgotten that these geographers declare in their respective books that they had drawn them up solely from Portuguese information, through having been unable to obtain any from Spain.

It can therefore, be concluded from the above, that the Argentine Report could not have been accused of *forgery or disloyalty* unless it was by somebody who had not read its text nor seriously examined the map that completes it. Baron de Capanema utters that charge against the Argentine Government through being unacquainted with the precedents, with the legal elements that characterize them, and, what is more, with marvellous precipitation. And nothing is more worthy of forgiveness than lightheadedness on the part of old men!

XXVI

Baron de Capanema winds up his heavy attack on the Foreign Office Report by saying:

The present exposition was already almost finished to be presented to the Arbitrator, still more complete; but—F having

on the 31st of March last, been discharged from the Commission with the usual praise—I had put it aside, but I brought it out again, as I was seized with a fit of patriotism on reading Dr. Zeballos's Report ».

The Baron may doubtlessly rest convinced that by bringing to light again the pleading he had prepared in view of the possibility of his being entrusted by his Government with its representation in the arbitration, has only discovered the weakness of the foundations of his cause. Brazil has proved its wisdom in ignoring him. I deeply regret it.

The Report of Foreign Affairs, indeed, had been honoured by the approval and adherence of Argentine public opinion. But it required to produce alarm or hatred from our opponents, to give it the proportions and character of a State paper—of a final unappealable statement. Baron de Capanema has shown at home and abroad that his country's case is mortally attacked by that document; and he, himself, withdraws from the field eluding any personal responsibilities that might ensue from the Arbitrator's sentence when he shall give it in favor of Argentine rights. Baron de Capanema's statement consequently, improves the state of the question from a diplomatic point of view inasmuch as it accuses Brazilian Statesmen of inability

and of want of conviction in the defence of their national interests, when, full of hesitation and anxiety, he forecasts without concealment an adverse sentence.

But what is undeniable and transpires from every chapter, is his ill-will against the Argentine Republic, which has inspired him throughout his statement, because Baron de Capanema intended also to carry out a policy of foreign tendencies, displaying once more his hostilities to the Republic.

It would be unfair, however, to make the Brazilian people responsible for this new error of Baron Capanema's. The men of the Empire whose civic strength, though they are out of power, is not beaten, have no reason to foster such resentment against a nation always respected by their great politicians until 1889, as an ally and a loyal friend of all times. The Imperialists injured this state of things and these friendly relations by their implacable aggression on Bocayuva when he returned from River Plate to present in Rio de Janeiro the form of uniting the public spirit of the two States, more solemn and lasting than the accidental wording of hypocritical conventions intended only to save time, under the appearance of everlasting friendship, which bring to mind the trick of an athlete who only withdraws

to take breath and charge his rival with greater force. But that deed of the adherents to the fallen *régime*, was a campaign of an internal character, which, by invoking an emblem attractive to the masses, attacked the cohesion and political conscience of the Republican Government. The famous victory of the Impèrialists against Bocayuva who was forsaken even by the very men who contributed to the drawing up of the Treaty of Montevideo, and by his colleagues in the Cabinet who had initiated and approved it unanimously, was itself the defeat of the Republic and the solemn demonstration that their official leaders were devoid of that great political instinct and of the unity and energy of thought and views necessary to face and overcome the perils attached to every commotion of a fundamental character.

The Argentine Republic acceded to the compromise on the disputed territory by way of welcome to the new institutions: but always certain of her own right and of the Arbitrator's justice.

The repeal of the Treaty did not offend her, nor did it cause the fall of Bocayuva, but that of the Central Government, which, in their despair, not finding the shelter of principles, fell into the clutches of a Dictatorship: the Republic was neither

honoured not strengthened, but it showed the weakness of its seeds and its promoters: national unity did not gain in firmness or cohesion under the influence of the Government of the 15th November, because their tolerance created Anarchy for half a century; and the throwing up of the international agreement was followed by the exactions, the impositions, and the risings of the military at home.

This deplorable civil war, as harmful to Brazil as it is to America, and to free institutions themselves, begins precisely when good sense among the Argentine people causes them to keep aloof from revolutions, no matter how deep may be the dissidence between parties; and at the time when our Country, sound and well armed, reconquers the strong positions to which it is entitled in South American politics. -- What convenience then, can Baron de Capanema foresee in reviving the almost extinct fires of hatred against the Argentines, under such circumstances? Do the Imperialists happen to expect that the basis of success may be for them in foolish international adventures? Do they happen to be responsible for such blindness and obsession?

The Republicans, who assume in the eyes of the world the scientific and political responsibility of the new form of govern-

ment proclaimed by Brazil, will in their turn perceive that Baron de Capanema's publication turns also furiously against the conveniences of the Republic and against the home and foreign *prestige* of their government; and they, like the whole of the Brazilian nation will understand; after my sincere and friendly demonstrations, that Baron de Capanema's silence would have been in this case the greatest service he could have rendered his country.

ESTANISLAO S. ZEBALLOS.



